COVERING NOTE: SUMMARY OF MAJOR ISSUES

1. The Ministry of Labour has submitted to the Commission memoranda on the following subjects:

(1) Industrial relations.

(2) The law affecting trade unions and employers' associations.

(3) Conciliation.

(4) Arbitration and inquiry.

(5) Other functions of the Ministry.

(6) International obligations.

2. The purpose of this paper is to summarise what appear to the Ministry to be the major issues arising. These are the issues which seem to have been the principal concern of public and informed opinion in recent years as indicated by representations made to the Ministry or by the writings of those in universities and other institutions who have made a special study of industrial relations. They are dealt with under the following headings:

A. The role of the trade unions.

B. Ways in which the trade unions might be strengthened and assisted.

C. Trade unions and the individual.

D. The role of employers' organisations.

E. Unofficial strikes.

3. Discussion of these and other issues in recent years has included suggestions for amendments to the law to deal with particular problems but there has been little or no debate about the general question of the legal framework within which trade unions and employers' associations operate and which forms, therefore, the basis of our system of industrial relations. The essential feature of the basic legislation in the second half of the nineteenth century was that trade unions and employers' associations were no longer illegal combinations in restraint of trade and that certain of their activities in pursuit of their interests were no longer illegal as conspiracies. The underlying assumptions of the legislation were those of " laissez faire ". By and large it did not impose positive legal obligations on either the unions or employers' associations. The position has been summarised in the statement that trade unions are " outside " (or " above ") the law. As a result, our industrial relations system developed on a voluntary basis without many legal sanctions and apart from periods of war has continued to work on such a basis. The nineteenth century legislation was passed when trade unions and employers' associations were small (as compared with the situation today), organised for the most part on a local basis, only beginning to develop policies for settling wages and the terms of employment and when they were certainly not forces influencing significantly the economic and social affairs of the nation as a whole. It is open to argument how far the nineteenth century assumptions about the right limits of legislation in this field are an appropriate starting point for considering changes in our system of industrial relations in the completely different circumstances of the present day.

A. *The role of the trade unions*

4. The Commission is required by its terms of reference to consider " the role of trade unions and employers' associations in promoting the interests of their members and in accelerating the social and economic advance of the nation ". It is obvious that the trade unions have a cardinal role in promoting

the interests of their members. It is not self-evident that they have an obligation to play a part in accelerating the social and economic advance of the nation and there is certainly scope for argument about the priorities between the two and the way in which possible conflict between the roles can be reconciled.

5. It can be argued that unions represent sectional interests and cannot be expected to assume national responsibilities. It is the business of the Government to promote the social and economic advance of the nation and the duty of unions to do what the Government requires by law. This argument while it may have been convincing many years ago is difficult to accept at the present day. The unions exercise a most powerful influence on tbe state of the economy. They represent 10 million workers and, in practice, are responsible, to a considerable degree, for determining by collective bargaining general levels of wages and most of the working conditions of the great bulk of the working population. The position has been reached where the processes of collective bargaining, their traditional activities, have a profound effect on tbe economy and in consequence on the national well-being.

6. The question—and it is a question which tbe trade union movement itself has not declined to face—is whether, following the example of unions in other countries like Sweden and Holland, their policies should be based on a more effective recognition that tbey are a major economic force and that higher priority in policies should be given to their responsibility for the good of the community as a whole. It can be argued that this must inevitably detract from the ability of the unions to promote the sectional interests of their members. But this is not a valid argument to the extent that the furtherance of the interests of trade union members has become dependent upon the social and economic advance of the nation. It is generally accepted that maintenance of a high level of employment is of fundamental importance to trade union members and that a steady increase in real wages can come only from an equivalent growth in production. The creation of general economic conditions favourable to the growth of production and the maintenance of full employment are primarily a matter for Government but it is clearly in the interests of trade union members that trade union policies and actions should so far as possible assist the Government in achieving these ends. It follows that there should be support also for Government policies to control inflation and promote efficiency and technological innovation.

7. In the Joint Statement of Intent on Productivity, Prices and Incomes in December 1964, the T.U.C. on behalf of the trade unions declared its willingness to shoulder these responsibilities. The T.U.C. accepted, in conjunction with the Government and the central organisations of employers, that major objectives of national policy must be:

To ensure that British industry is dynamic and that its prices are competitive;

To raise productivity and efficiency so that real national output can increase, and to keep increases in wages, salaries and other forms of incomes in line with this increase ;

To keep the general level of prices stable.

The three parties undertook :

To encourage and lead a sustained attack on the obstacles to efficiency, whether on the part of management or of workers, and to strive for the adoption of more rigorous standards of performance at all levels.

The acceptance of these responsibilities has radical implications for the trade unions affecting their traditional task of bargaining.

8. The difficulties in the way of making the declaration referred to a practical reality at the level of the individual trade union and at the level of the plant are very considerable. There is one obvious general problem. If trade union leaders accept these wider responsibilities there is a risk that they will cease to be regarded by their membership as representatives of their interests and their influence and authority may be transferred to unofficial leaders. Institutional and organisational difficulties are mentioned in the next section of this paper, but equally significant are established habits of mind and attitudes. The more efficient use of labour can be achieved only if individual unions and workers are willing to give up practices which they have struggled to establish—perhaps with good reasons—in the past. There is a need for collective bargaining to concentrate much more than it has done on such matters. If this development takes place there would seem to be a need also for policies to improve the security and the status of workpeople so that they are readier to accept the consequences of technological change for the jobs they carry out and their habits of work.

9. In some other countries, like the United States, the scope of collective bargaining is much wider than here. There has been a tendency in the United Kingdom to regard certain aspects of the protection of the worker as being more appropriate for legislation than collective bargaining. This may be due in part to our highly developed social security legislation, e.g. in the fields of sick pay and pensions. This tendency has been emphasised by recent legislation—the Contracts of Employment Act 1963 and the Redundancy Payments Act 1965. In this connection, it may also be asked how important now are the social security benefits which unions provide and how important in the future are they likely to be. There is little doubt that the benefits provided by trade unions are of less significance for the worker now than they were when they were introduced, and it may be that they will decline—perhaps ought to decline—further in the future.

10. When the trade unions and employers' organisations subscribed to the Government's policy for incomes, they set off along a road, the end of which cannot be precisely foreseen. Agreement at the centre on a "norm" for wage increases cannot mean that every worker will get no more and no less than the average increase agreed. For a variety of reasons, it is desirable that some should get more and some less. Apart from anything else, a freezing of the present situation would not be acceptable to the lowest paid workers and to the unions which represent them (though, as paragraphs 117 and 118 of the Ministry's first memorandum show, the spread of earnings around the average has not changed very much in the last 25 years). A successful incomes policy requires suitable institutional methods for achieving it. It remains to be seen to what extent these will be developed on a voluntary basis by the joint efforts of Government, employers and trade unions and how far the voluntary procedures will have to be supplemented by legislation.

B. *Ways in which the trade unions might be strengthened and assisted*

11. There is first the question of the influence and authority of the Trades Union Congress. It is often argued that to carry out the commitments referred to in paragraph 7 the T.U.C. needs more authority over its constituent unions of the kind exercised by the equivalent body in Sweden and that if the policy on incomes is to be effective, greater powers of co-ordination and supervision would need to rest with the T.U.C. This is happening already under pressure of events ; it is for consideration whether there are specific steps that could be taken to assist the process.

12. In regard to negotiations at the industry level, the view is sometimes expressed that trade unionism would be more efficient and effective if it was organised on an industrial basis, i.e. one union for eacb industry. It is likely that industrial unionism would eliminate a considerable number of disputes between unions and be helpful in other ways, thougb there are limits to the validity of this argument—some demarcation disputes arise in a single union. In any case it is difficult to see how, given the history of British trade unionism, a complete reorganisation on the basis of industrial unionism could, in practice be achieved. On the otber band, the current trend is towards bigger unions and recent legislation (the Trade Union (Amalgamations, etc.) Act 1964) has been designed to make this easier. The question bas, bowever, to be asked wbether the present rate of progress is enough.

13. At tbe local level, there is evidence that trade union organisation could be improved and there is very little formal machinery for collective bargaining, certainly in comparison with the elaborate arrangements at the industry level. The large number of unofficial strikes bears witness to tbe relative weakness of trade union authority from the centre in tbe plant. In fact, negotiations at plant level are commonly conducted by shop stewards and not by full-time trade union officials. Yet local negotiations have become increasingly important since the war and there is a case for extending their scope to cover sucb matters as productivity, security of employment and workers' grievances. It may be that measures are needed to clarify and formalise the position and duties of shop stewards within the union organisation and to bring local negotiations into tbe framework of negotiations at tbe industry level.

14. Arising from sucb considerations, there is a belief in some quarters that there should be better established arrangements for negotiating in the plant. This might not go beyond some kind of standing body on whicb the shop stewards of the various unions in the plant made up the " workers' side ". A more radical step would be for at least tbe more important unions concerned to be represented on plant negotiating bodies by full-time officials. This would call for a mucb larger number of trade union officials than at present, and a corresponding increase in trade union subscriptions and/or membership.

15. The Commission will no doubt be taking evidence from the trade unions about tbeir own internal organisation. The Ministry is not qualified to do more than make some general comments. The new tasks ahead would seem to call for a review by unions of their staffing and internal structure. One complaint that is often heard is tbat some unions are slow-moving. There is also a good deal of apatby among trade union members towards the conduct of union affairs. Very low proportions of the membership vote in union elections. It would help to remedy this state of affairs if employers generally were to allow union meetings, elections, etc. to take place on the firm's premises. In some unions, branches are organised on a geographical basis and members belong to the branch covering the area in which they live. There are advantages in this, but unions might profitably consider organising more of their branches on a plant basis.

16. Given tbat it is in the national interest tbat tbe country sbould have strong and responsible trade unions, a case can be argued for making it obligatory on an employer to recognise a trade union if it can sbow that it bas a certain percentage of the work-force in membership. The implications of this are discussed in more detail in the Ministry's second memorandum. The possibility of re-introducing compulsory arbitration, i.e. arbitration at the instance of eitber party to a dispute, is relevant to the question of recognition. If an employer can be required to appear before an arbitration tribunal in connection with the wages and working conditions of workers, it puts him in a position where there is little point in continuing to refuse recognition to a trade union.

17. Another way in which the law could strengthen the position of trade unions is by making it obligatory on employers, at the request of a union, to collect union dues—subject, of course, to safeguards for the individual.

C. *Trade unions and the individual*

18. The view is often expressed that with the growth of trade union power and (so it is alleged) defects in some trade union rules, the individual can be unfairly prevented from pursuing the occupation of his choice, either by expulsion from a union or by refusal to admit to membership. The Commission will, no doubt, receive a substantial amount of evidence on this point. The purpose of referring to it here is not only because it is an issue which arouses wide general interest, but also because it is intimately connected with two wider problems to which the Commission will no doubt wish to give their attention. These are what can best be described as 100 per cent. trade unionism and the possibility of an increased degree of statutory supervision over trade union rules.

19. The subject of 100 per cent. trade unionism has been traversed at length by Dr. W. E. J. McCarthy in his book on the closed shop. The arguments very briefly run as follows :

(a) that improvements in wages, working conditions, etc. are negotiated by trade unions ;

(b) that all workers in a plant or industry benefit from these negotiations ;

(c) that in these circumstances it is inequitable that those who do not pay union dues should benefit equally with those who do.

20. A union may achieve 100 per cent. membership by purely voluntary means and this is indeed the general policy of trade unions in the United Kingdom. When, however, 100 per cent. membership has been achieved the union may enter into an agreement with the employer that he will not employ anyone who is not willing to be a member of the union. Such an agreement is known as a " closed shop " agreement. These agreements normally imply membership of a particular union or unions and not simply membership of any trade union. In some industries, there are agreements which go further and provide that recruitment is in the hands of the union. In this way it can control the conditions of entry into an industry and indeed effectively influence management policy on such questions as the allocation of work between particular groups of workers and the manning of individual machines.

21. In the situations described in the preceding paragraph there is a case, in certain circumstances, for safeguarding the position of the individual worker. This would clearly be necessary if trade union membership were to be made a legal obligation. The subject is discussed in more detail in the Ministry's second memorandum.

22. One question raised by the closed shop is whether, if the worker has to belong to a trade union, there ought not to be an increased degree of supervision over trade union rules by the Chief Registrar of Friendly Societies or some other Government authority. Indeed, it has been argued that there is a case for this quite apart from the closed shop. In the opinion of many people, many of the current trade union rules are confused and in some cases unfair to the individual. The case of *Faramus v. Film Artistes' Association* is merely one example. The Chief Registrar has submitted separately a paper explaining the present extent of his authority. An issue for consideration is whether the powers of the Chief Registrar to approve trade union rules should be increased and, as a corollary, whether the advantages to a union of being registered, as opposed to being non-registered, should be increased also.

23. Another way in which the individual trade union member may suffer vis-à-vis his trade union is if there are irregularities in the conduct of trade union elections. A remedy may be had in certain circumstances in the ordinary courts as the well known case of the Electrical Trades Union some years ago demonstrated. However, it requires persistence and money and takes a long time to obtain redress in this way, and there is a case for considering if readier means of redress, e.g. by appeal from the individual trade union member to a tribunal, whether set up voluntarily or by statute, ought not to be provided. On the other hand, it is fair to say that such cases appear to be extremely infrequent.

D. *The role of employers' organisations*

24. Much of what has been said about the role of trade unions applies equally to employers' organisations. The detailed application of the "norm" of incomes policy and the extension of collective bargaining to cover more adequately than at present such subjects as productivity and security of employment are as much the responsibility of employers' organisations as of trade unions—if not more so. Certainly in the field of productivity it is normally to be expected that the initiative would come from employers.

25. Much more discussion appears to have taken place about developments in the trade union structure than has taken place about employers' organisations. As a broad generalisation, it may be said that employers' organisations have grown up protectively as a defence against trade union pressure. There is a very large number of employers' associations. Some 1,500 are listed in the Ministry of Labour's Directory of Employers' Associations and Trade Unions. Many employers' organisations at the national level, like the Engineering Employers' Federation and the National Federation of Building Trades Employers, have regional and district affiliates, the reasons for the continuing independence of which would appear to be mainly historical. At the top is the Confederation of British Industry, recently formed from an amalgamation between the Federation of British Industries, the British Employers' Confederation and the National Association of British Manufacturers. The Confederation has interests extending beyond the labour field. Like the T.U.C. it is purely a co-ordinating body and it does not exercise any direct control over the collective bargaining of employers' organisations at the industry level. Nor do they in their turn have much influence over negotiations in individual plants. The question has to be asked whether this structure will prove adequate to carry through the detailed implementation of an incomes policy and to stimulate new developments in collective bargaining.

26. If it were concluded, on the point referred to in paragraphs 13 and 14 above, that more formal recognition should be accorded to the importance of local negotiations and more attention given to the relationship of such negotiations to collective bargaining at the national level, it would also be necessary to consider what should be the role of local employers' associations, if any, so far as local negotiations were concerned.

27. Moreover, if 100 per cent. trade unionism were to spread throughout industry, the question would arise of what could be done to encourage all employers to belong to the appropriate employers' organisation. At present many important firms are not in membership.

28. There is now wide agreement that good industrial relations, including such matters as the reduction, if not the elimination, of restrictive practices, depend very largely on good management. The pursuit of good industrial relations, which involves all the senior members of a firm's management, and

not only the personnel manager, is becoming an ever more demanding task. While the industrial relations management in the best of our firms stands comparison with that anywhere in the world, it is doubtful whether this is true of more than a small minority. It is for consideration whether the training of higher management in the skills and techniques of industrial relations does not require much higher priority than has been given to it in the past. There is also a case for saying that employers' organisations should do a good deal more than they have done in the past to encourage higher standards of personnel management in their member firms.

E. *Unofficial strikes*

29. There is a large body of opinion which holds, rightly or wrongly, that the large number of unofficial strikes is the main defect in industrial relations in the United Kingdom—or at any rate is evidence that they are seriously defective—and the main respect in which our industrial relations compare most unfavourably with those in other countries.

30. There is one body of opinion which holds that the answer to this problem is in some way or another to make unofficial strikes illegal. In its ultramontane form this view would seem to be self-defeating, on the simple ground that it would be impracticable. War-time experience would certainly seem to support this conclusion. Quite simply, in the last resort, it is not practicable, nor would it be conducive to good industrial relations, to try and put a large number of people in jail. In addition to this objection, any suggestion that the trade unions, in the case of unofficial strikes, should be subject to large and undefined penalties, which might indeed in certain cases bankrupt the unions concerned, would seem to be open to very strong criticism. If, as would be generally agreed, it is in the national interest that there should be powerful and responsible trade unions, any proposal that might lead to the crippling of certain trade unions in circumstances where it might well be that there was little or nothing that the union itself could do is clearly unacceptable. Moreover, given such a situation, unions would be compelled, in their own interests, to call official many strikes which now remain unofficial.

31. There is, however, a modified form of this view which escapes some, at any rate, of the objections to which reference has so far been made. The argument here would rest on the proposition that in various fields trade unions now exercise little influence on bodies such as shop stewards' committees, and that, in many circumstances, trade unions do less than they could to prevent unofficial disputes arising. The argument would then be that it is desirable in the national interest that pressure should be exerted on trade unions to give more attention to the activities of shop stewards and other subordinate bodies. The proposition to which this argument leads would be that in the case of unofficial strikes (or strikes in breach of procedure which in practice are much the same thing) the trade union concerned should be subject to defined penalties, according to the length of time the unofficial strike lasted, unless they could show to some independent tribunal that they had taken all steps open to them to prevent the unofficial strike taking place, or to bring it to an end as soon as possible.

32. Whether legislation on these lines would lead to fewer strikes, official or unofficial, and whether it would result in improved bargaining machinery, is a matter on which other evidence will no doubt be presented to the Commission. It would seem desirable to the Ministry, however, to try and establish as best one can what are the causes of unofficial strikes and whether there are other measures which would help to deal with the situation.

33. The information available to the Ministry would suggest that 90 to 95 per cent. of all strikes are unofficial, and that of the unofficial strikes that take place rather less than half are due in one way or another to wages questions and rather more than half to other matters such as dismissals, unsatisfactory working conditions, demarcation disputes and so on.

34. So far as wage disputes are concerned, the basic consideration would seem to be that we have in effect in this country a two-tier bargaining system. There are national bargains between the unions concerned and the main employers' federation, and there are local bargains reached at the factory level, in the main between the management concerned and shop stewards. It has already been suggested that there may be a need for closer links between national and local negotiations and, perhaps, for more formal machinery of negotiation at the local level, on which the unions might be represented by full-time officials as well as by shop stewards.

35. The question also arises whether current procedures for settling disputes sufficiently reflect the development of this two-tier system of bargaining. It may be, for example, that the procedure in our main industries for dealing with local disputes about wages matters is not sufficiently quick and flexible to prevent local trouble occurring which, given a better machinery, might be prevented. While the evidence available in the engineering industry would certainly suggest that cases can reach the final court at York quite quickly, there is also evidence that some cases can take a matter of months to work through the machinery.

36. While there are certainly arguments (how strong is a matter of opinion) in the field of wages and earnings against any proposal that what is still a highly centralised machinery for settling disputes should be broken down, the arguments would appear to be less strong in the case of disputes which are not about wages and earnings, e.g. about grievances of other kinds, e.g. dismissals. It must be recognised that there can often be local grievances, where the men concerned have, at any rate, a strong *prima facie* case for immediate action. The first need may be for better arrangements for handling the matters which give rise to these grievances to be established more generally in industry, e.g. through an extension of collective bargaining into this field. Even so, disputes may arise and it is for consideration whether industrial relations would be improved and unofficial strikes reduced in number if there was an opportunity for disputes to be referred quickly to some sort of local tribunal or labour court, either set up by the Government, under statutory powers, or set up by the two sides of industry themselves, under voluntary agreements. It would be for discussion whether appeals to such an independent body should be allowed at the instance of the individual or of the trade union or perhaps of both. In considering this suggestion, it should be borne in mind that by long tradition, the Ministry does not normally seek to conciliate where a dispute is unofficial, though it may, and does if appropriate, try and help the employer and trade unions concerned to get back into negotiation when negotiations have broken down.

37. A variant of this last suggestion is a proposal that has been put to the Ministry from time to time, and which was discussed with the British Employers' Confederation and the Trades Union Congress last year, for the Minister rapidly to appoint three-man teams of inquiry whenever unofficial strikes take place. The purpose of these teams would merely to be produce a factual account of what the dispute was about, and to make the facts as widely known as possible, but in no sense to have a responsibility to conciliate. This proposal did not prove to be acceptable either to the B.E.C. or to the T.U.C., though they agreed a modified proposal for the examination *ex post facto* by nominees of the B.E.C. and the T.U.C., but without the Ministry, of the reasons why particular disputes had taken place.

38. Finally, although it is implicit in what has already been said, it must be emphasised that the causes of unofficial strikes do not always lie on the employees' side. The actions of management not merely in the immediate case which may provoke a strike, but also over a long period, can contribute to building up the power of unofficial leaders and weakening that of the full-time trade union officials. The number of unofficial disputes might be reduced considerably if the standards of personnel management were as high in industry generally as they are in the best firms. There is a need for labour matters to be given attention at the highest levels of management and for the implications of all decisions reached by management to be considered from the point of view of the labour force. A great deal of knowledge is available nowadays, as a result of the experience of the most progressive firms and of academic research, about the attitudes of workpeople and the most appropriate procedures for handling the labour force. It is desirable that this knowledge should be disseminated more widely and acted upon.

FIRST MEMORANDUM : INDUSTRIAL RELATIONS

Scope of memorandum

1. This memorandum takes as its starting point the institutions and arrangements for collective bargaining and discussion between representatives of employers and workpeople and the institutions for discussion between representatives of both employers and workpeople and the Government. It concentrates on those where the process of bargaining or discussion directly affects, or is closely connected with, relations between managements and employees—i.e. bargaining or discussion concerned with three broad areas : employment ; terms and conditions of employment (including pay, hours of work, etc.) ; and productivity.

2. This process goes on at three levels :

(1) *National*—The central co-ordinating bodies of employers' associations and the trade unions respectively are the Confederation of British Industry (into which the British Employers' Confederation has recently merged—see para. 9) and the Trades Union Congress. These bodies take part in discussion of national policy issues—e.g. employment and unemployment, incomes policy, etc.—between themselves and with the Government ; they are represented on many of the major advisory bodies to the Government. The C.B.I. and T.U.C. do not themselves engage in collective bargaining, nor did the B.E.C.

(2) *Industrial*—The main feature of the British system of industrial relations is the voluntary machinery which has grown up over a wide area of employment for industry-wide collective bargaining and discussion between employers' associations and trade unions over terms and conditions of employment.

(3) *Plant*—Collective bargaining and discussion also take place in many industries between individual managements and the trade unions, normally with their immediate representative in the workplace—the shop steward.

3. This memorandum attempts to describe and appraise the way in which these institutions and arrangements operate, the objects and purpose of the operations and their results. It comprises the following sections :—

A. *Factual Description*

(1) The Institutions—Employers' Associations.
(2) The Institutions—Trade Unions.
(3) Central Discussion between Employers' Associations, Trade Unions and Government.
(4) Industry-wide Collective Bargaining—Mechanics.
(5) Industry-wide Collective Bargaining—Subjects.
(6) Collective Bargaining at Plant and Shop Floor Level.
(7) Joint Consultation.
(8) Personnel Management.

B. *Appraisal*

(1) General Social and Economic Advance—Objectives of Collective Bargaining. This first compares the objectives of the Joint Statement of Intent on Prices, Productivity and Incomes with the traditional objectives of collective bargaining and considers the questions raised by the commitment

of the T.U.C. and the employers' associations to the Joint Statement's objectives. There follows a section on industrial training, and sections on the contributions made by collective bargaining to social advance. After a review of the advances in wages and working conditions since before the last war, there are sections on security of employment, the lowest paid workers and workers' grievances. The final section deals with the relationship between collective bargaining and joint consultation.

(2) Industrial Peace. This attempts to describe the extent to which the voluntary procedures developed by the collective bargaining system succeed in settling disputes peacefully. The history and extent of the problem of strikes are described, including the part played by unofficial strikes, the record of the United Kingdom compared with other countries, the strike-prone industries, the causes of disputes, the effects of strikes and the problem of seriously damaging strikes. A general assessment is made and consideration is given to the questions raised for employers and employers' associations, trade unions, particular industries and the Government.

A. FACTUAL DESCRIPTION

(1) The Institutions—Employers' Associations

4. Employers' associations grew up as a means of combating the growing strength of the trade unions. In their early days they did not negotiate with the unions but helped individual members during strikes and exercised pressure on them not to under-cut wages. Sometimes they were no more than *ad hoc* temporary organisations disbanded after the conclusion of disputes. Beginning mainly as local associations on an industrial basis, employers' associations combined to form industry-wide associations or federations. In September 1965 the Ministry of Labour's directory* listed 1,411—many of them local bodies subordinate to industry-wide federations ; the number of autonomous organisations is estimated to be over 750. Appendix I sets out the number and industrial distribution of employers' associations.

5. Today the principal function of employers' associations is collective bargaining with trade unions to determine standard or minimum wage rates and conditions. Associations as such are not usually concerned with the settlement of disputes at the level of the firm (except sometimes in an advisory capacity) even though they are normally parties to the procedures laid down for dealing with such disputes in the industry. Their activities include organisation of apprenticeship and training schemes, distribution to members of information about wage rates, earnings and other labour matters and representation of members' views (e.g. on Government policy). Associations generally regard the management of labour within a firm as a matter for their members rather than themselves and avoid any action which might be construed as interference in members' internal affairs.

6. Some large and important firms do not belong to any employers' association. These include such firms as the Ford Motor Company, the Vauxhall Motor Company, Esso Petroleum, the Steel Company of Wales and the Lancashire Cotton Corporation. I.C.I., though a member of the chemical employers' assocation, negotiates directly with the unions representing its employees.

7. Until the establishment of the Confederation of British Industry this year (see para. 9), the central federation of employers' associations was the British Employers' Confederation which was founded in 1919. Membership was confined to associations and was not open to individual employers. In 1965

* Directory of Employers' Associations, Trade Unions, Joint Organisations, etc.

the B.E.C. had 54 members which included most of the principal associations and covered about 618 subordinate associations. The B.E.C. claimed to represent the employers of 70 per cent. of those engaged in private enterprise industries and services.

8. The B.E.C. had no power of direction over the activities of its member organisations. Its main purposes were to provide a centre for the exchange of views on questions affecting employers and to present the common view of employers, e.g. to the Government. It did not negotiate with trade unions. Much of its work consisted in disseminating information to members, providing advice on industrial relations and legal and economic matters, and representation of British employers in the international field.

9. In July of this year the B.E.C. merged with the Federation of British Industries and the National Association of British Manufacturers (bodies whose principal interests have lain outside industrial relations) to form the Confederation of British Industry. The C.B.I. will admit to membership individual firms as well as associations, and the nationalised industries are eligible for associate membership. Like the B.E.C., it does not have power over its members' activities. Unlike the B.E.C., it has a regional organisation.

(2) The Institutions—Trade Unions

Historical background

10. It is not the intention to describe in detail in this paper the historical development of trade unionism. It is desirable, however, to mention some salient facts for the light they throw on the present situation.

11. The earliest trade unions, which increased greatly in number during the 18th century (though not all survived the period when they were outlawed by the combination laws between 1799 and 1824), were typically small and local in character and made up of skilled workers, each union being confined to a single occupation. In the latter half of the 19th century, the local unions increasingly came together in national bodies, each still confined to a single occupation. This was the origin of many of the craft unions of the present day.

12. Other unions were formed in the middle years of the 19th century to represent workers in the new industries of the industrial revolution, e.g. textiles and coalmining. They also tended to be organised on an occupational basis.

13. The last decade of the century saw the spread of general unions catering for unskilled and semi-skilled manual workers without distinction of occupation or industry. Some of the craft unions also opened their ranks to unskilled and semi-skilled workers.

14. Finally, in a few industries, unions were formed catering for all manual occupations in the industry. Non-manual workers are organised in separate unions, which have developed in the last fifty years.

15. There are, therefore, at the present day three principal types of union for manual workers—craft, general and industrial—and some unions partake of the character of more than one of the principal types. There are also the white collar unions. No simple generalisation is possible, therefore, about the basis on which workers are organised into trade unions. There is, however, a strong bias towards organisation on an occupational basis and, as negotiations are conducted on an industrial basis, the workers' side at such negotiations commonly comprises a number of unions. Sometimes these unions have come together in federations such as the Confederation of Shipbuilding and Engineering Unions, the Printing and Kindred Trades Federation and the National

Federation of Building Trades Operatives. The unions concerned retain their autonomy hut, through the federations, are ahle to evolve a common view on matters which concern them all and to act collectively in support of it.

16. The Trades Union Congress, which is a co-ordinating body, was formed in 1868. There is also a Scottish Trades Union Congress. (On these hodies see also paras. 29–32).

Number and size of unions

17. At the end of 1963 there were 596 trade unions of employees*, salaried and wage earning. A tahle showing the distrihution of trade union memhership at the end of 1963 among unions of different sizes is given in Appendix II. Most trade unionists helong to a relatively few large unions and the remainder belong to a very large numher of small unions. Over half of all trade unionists are in the 8 largest unions and four-fifths are in the 35 largest unions. At the other extreme, there are 318 unions, more than half of the total numher of unions, whose comhined memhership was less than 1 per cent. of all union members.

18. The 18 largest unions, i.e. with 100,000 or more memhers, are listed by name in order of size in Appendix III, the memhership being shown in each case.

19. The situation is hy no means static. Between 1953 and 1963, the total number of unions declined from 720 to 596. There have been a numher of amalgamations recently and talks are going on ahout others. In a number of cases, the T.U.C. has taken the initiative in hringing unions together for discussion.

20. Some stimulus may have heen provided hy the Trade Union (Amalgamations, etc.) Act 1964, which considerahly eased the requirements governing amalgamations and transfers of engagements hetween unions (as well as those governing changes of name).

Industrial unions

21. It has often heen suggested that the most desirahle development would be for unions to amalgamate to form industrial unions, i.e. unions confined to one industry and representing all manual occupations in that industry. This form of organisation would conform most closely to the pattern of negotiating machinery. It would also mean there would he one union covering all manual workers in each plant. In Germany, for example, there are 16 industrial unions for manual workers, covering the main sectors of industry.

22. The most ohvious examples of industrial unions in this country are the National Union of Mineworkers and the National Union of Railwaymen though the latter shares the field with the Associated Society of Locomotive Engineers and Firemen. Other unions have in memhership the great majority of organised employees in their field, e.g. the docks section of the Transport and General Workers' Union in the dock industry ; an example in the non-manual field is the National and Local Government Officers' Association in local government service.

23. The Trades Union Congress has heen studying the possihilities of a move towards industrial unionism but so far little progress has heen made in that direction.

* The legal definition of a trade union comprises combinations of employers as well as of employees, but throughout this memorandum "trade union" refers to combinations of employees and combinations of employers are referred to as employers' associations.

Trade union membership

24. There are nearly 10 million trade union members out of 23 million employees. An attempt has been made in Appendix IV to show the distribution of this membership among the main groups of industries. The figures do not purport to be precise (the difficulties of estimation are explained in Note 1 to the Appendix) but they give a general idea of the picture.

25. Employees in some of the older industries, like coalmining and railways, appear to be 100 per cent. organised in trade unions and there is a high degree of organisation in national and local government service. At the other extreme, only low proportions of employees are organised in, for example, the distributive trades and in catering.

26. In considering the figures in Appendix IV, it has to be borne in mind that they cover all employees—manual and non-manual. Non-manual workers in the public sector are well organised, but it is believed that in the private sector a relatively low proportion are trade union members. Moreover, the figures cover both men and women and, while over one half of all male employees are trade union members, less than one quarter of women in employment are organised (though the number of women trade unionists is rising faster than that of men).

27. The pattern of industrial employment is changing fairly rapidly and this is relevant to the question of trade union membership. The principal changes between 1959 and 1964 are shown in Appendix V ; in general the trends shown there were also shown by the preceding five years. The proportions of the total number of employees who are engaged in agriculture, mining, transport, public administration and even in manufacturing have gone down. (Within manufacturing, some industries have gone up while others declined.) The power industries have been steady and construction has gone up a little, but in distribution and services generally there has been a large increase from 32·9 per cent. to 35·0 per cent. of the whole. Moreover, there has been a marked shift from manual to non-manual employment, which is not revealed in the figures in Appendix V. In manufacturing, for example, between October 1954 and October 1964 the proportion of administrative, technical and clerical workers increased from 18·4 per cent. to 23·1 per cent. In general, therefore the shift has been away from areas of employment in which the trade unions are well established to others where they are not so well represented.

28. This helps to explain the fact that trade union membership, which increased rapidly immediately after the war, has been growing much more slowly in recent years. Appendix VI shows total trade union membership each year from 1945 to 1963, with the percentage change year by year. During the ten years 1953–1963 membership increased by about 4 per cent. This compares with an increase in the total number of employees of more than 9 per cent.

The Trades Union Congress

29. In 1964, there were 175 unions with a membership of 8,325,790* affiliated to the T.U.C. Affiliated unions represent both manual and non-manual workers. Of the unions with over 100,000 members listed in Appendix III, all except one (the National Union of Teachers) are affiliated.

* This figure does not include the membership of the recently affiliated National and Local Government Officers' Association.

30. The T.U.C. is a co-ordinating body for the trade union movement with the general objective of promoting the interests of its members. There is an annual meeting of delegates from the affiliated unions which elects a General Council to carry out the business of Congress.

31. The General Council may use its influence to settle disputes or threatened disputes between affiliated organisations and, in such matters, it is guided by principles (now commonly known as the Bridlington Agreement) adopted at the 1939 Congress at Bridlington.

32. There is a Scottish Trades Union Congress, which takes into affiliation not only unions with a membership confined to Scotland but also national unions affiliating in respect of their membership in Scotland. In 1964 there were 88 unions with an affiliated membership of 786,531 affiliated to the Scottish Trades Union Congress, which also accepts trades councils into affiliation.

Trade union finances

33. Appendix VII summarises the finances of registered trade unions of employees in the years 1953, 1961, 1962 and 1963. Although the number of trade union members did not change greatly between 1953 and 1963, the total income of unions (which comes mainly from membership subscriptions) went up by about two-thirds. Expenditure rose commensurately but, nevertheless, the total funds of registered unions at the end of the year had risen from £70,709,000 in 1953 to £106,179,000 in 1963.

34. Appendix VIII shows the average annual contributions per trade union member in 1963 in the main industrial groups. The figures range from an average contribution of £7 10s. 10d. in paper, printing and publishing to one of £1 3s. 2d. in mining and quarrying other than coalmining. The average contributions for all unions of employees was £3 11s. 4d. The change in the average contribution since 1938 compared with the changes in earnings and wage rates is illustrated by the following table :

	Average contribution	*Average weekly earnings for all full-time manual workers**	*Index of wage rates: all workers: all industries**
1938	100	100	100
1953	117	301	231
1963	195	529	354

* These figures relate to October in each year.

Trades councils

35. Trades councils are locally based bodies representing union branches in the locality. They flourished in the nineteenth century but declined in importance as the centre of gravity of the trade union movement shifted from the local to the national level. They once sent delegates to the T.U.C. but no longer do so, though they have continued to be represented in the Scottish T.U.C.

(3) Central Discussion between Employers' Associations, Trade Unions and Government

36. The British Employers' Confederation and the Trades Union Congress have long been recognised as the authoritative channels of consultation between the Government and organised employers and workers. There were, however, no formal arrangements for regular consultation until 1939, when after the outbreak of war the National Joint Advisory Council was established. This

consisted of 15 representatives nominated by the B.E.C. and 15 nominated by the T.U.C., under the chairmanship of the Minister of Labour, " to advise the Government on matters in which employers and workers have a common interest ". In 1940 the Council appointed a Joint Consultative Committee, consisting of seven representatives from each side; this was able to consider matters in greater detail and took over the Council's functions for the rest of the war. The war involved Government intervention in industrial relations matters, including the mobilisation of manpower and the settlement of disputes, to an extent previously unthinkable and the Committee's advice played a major part in the formation of Government policy.

37. After the war the Council was reconstituted. Representatives of the nationalised industries were added in 1949. Regular quarterly meetings were held which considered such questions as the economic situation and matters connected with employment or industrial relations. Another consultative body on which both sides of industry were represented was the National Production Advisory Council for Industry, which served as a forum where the Government could consult national and regional representatives of employers and labour on Government policy and procedure affecting industrial production (excluding terms and conditions of employment). These bodies were concerned not with bargaining or negotiation but rather with the transmission of information on economic and production issues and with consultation on matters directly affecting production and labour.

38. Besides this formal machinery, there has been since the war and continues to be extensive informal consultation and discussion between Government departments and the representative organisations of employers and workpeople on matters of concern to industry.

39. Production for recovery was a vital topic in the post-war years and in 1948 the Anglo-American Council on Productivity was formed of representatives of management and labour in both the U.K. and the U.S.A., to promote economic well-being by the exchange of knowledge about industrial organisation, methods and techniques and thereby to assist British industry to raise the level of its productivity. The constituents of its U.K. section were the B.E.C., the F.B.I. and the T.U.C. The Council was wound up in 1952 when Marshall Aid came to an end but its U.K. section was succeeded by the British Productivity Council, whose function is to put across to industry the importance of higher productivity and to spread the best technical knowledge and practices by exchange of information and by self-education. Though the B.P.C. receives moral and financial support from the Government, it is a joint body of representatives of employers and workpeople without Government participation. It marks a new stage in the peace-time involvement of trade unions in the discussion of productive efficiency.

40. As the post-war period continued the number and importance of matters discussed at the N.J.A.C. tended to decline and in July 1960 a meeting was cancelled for lack of business for the second time in twelve months. More recently, however, the Council has devoted much attention to matters affecting the status and security of workpeople and other industrial relations matters. Reports have been published under its auspices on such subjects as provision for redundancy, the selection and training of supervisors and communications and consultation, and in 1963 the B.E.C. and T.U.C. issued a joint statement of policy on the training of shop stewards after a series of meetings following discussion of this question on the Council.

41. With the increased importance of planning and the development of Government policies to promote economic growth, including policies for prices and incomes, there was recognition of the need for closer collaboration hetween the Government and representatives of employers and trade unions. The National Economic Development Council was set up in 1962 to provide for discussion of wider economic issues, such as the ohstacles to quicker growth and ways of improving efficiency, in a way which would enahle employers and trade union representatives to influence Government policy during the formative stage. The Council found it necessary to examine in detail the economic condition and prohlems of particular industries, and in a numher of industries Economic Development Committees were set up to examine the industry's economic performance and prospective plans and to consider ways of improving its efficiency. The Council was also concerned with the prohlem of prices and incomes and their effect on economic growth.

42. The N.E.D.C. continued, with some changes of memhership, after the setting up of the Department of Economic Affairs in 1964. The N.P.A.C.I. was wound up in January 1965.

43. Concern with the prohlems of productivity, prices and incomes led in the autumn of 1964 to direct discussions outside the N.E.D.C. between the Government and representatives of employers and workpeople. In Decemher 1964 representatives of the Government, the T.U.C., the B.E.C., the F.B.I., the N.A.B.M. and the Association of British Chamhers of Commerce signed the Joint Statement of Intent on Productivity, Prices and Incomes. In this the Government undertook to prepare and implement a general plan for economic development, to give much greater emphasis to increasing productivity, to introduce essential social improvements, to set up machinery to keep watch on the movement of prices and incomes and to correct any excessive growth in profits as compared with wages and salaries. The representatives of trade unions and employers undertook to encourage and lead a sustained attack on obstacles to efficiency, to strive for more rigorous standards of performance at all levels and to co-operate in machinery to be established by the Government to review the movement of prices and incomes and to examine particular cases to see whether price and income behaviour was in the national interest. The White Paper " Machinery of Prices and Incomes Policy " (Cmnd. 2577) of Fehruary 1965 announced that the N.E.D.C. was to carry out a review of the general movement of prices and incomes and that a National Board for Prices and Incomes was to he set up to investigate particular cases of price and income hehaviour. After further consultation with representatives of employers and trade unions and discussion at the N.E.D.C., the Government set out in the White Paper " Prices and Incomes Policy " (Cmnd. 2639—April 1965) the considerations which in the national interest should guide all those concerned with prices and incomes. On prices, criteria were laid down in the ahsence of which enterprises were not expected to raise their prices and circumstances were defined in which they were expected to reduce their prices. On incomes, the object was stated to be to raise real incomes hy increasing productivity and efficiency and to avoid increases in money incomes that would push up costs and prices ; an important step would he to lay down a " norm " indicating the average rate of annual increase of money incomes per head consistent with stability in the general level of prices. The White Paper said that in the existing circumstances the appropriate figure for this purpose was 3 to 3½ per cent. Increases ahove the norm should be confined to cases where exceptional treatment could he shown to he justified on the ground of productivity, better manpower distrihution, exceptionally low rates of pay or generally recognised anomalies.

(4) Industry-wide Collective Bargaining—Mechanics

44. Historically, collective bargaining at the level of the industry followed collective bargaining at the level of the plant or district. It was made possible by the formation of unions with a national coverage and by the formation of employers' associations. Employers naturally tended to draw together on an industrial basis and this meant that national negotiations covered the workers in a particular industry rather than a particular occupation. As was pointed out in para. 15, a typical piece of negotiating machinery at the national level comprises a number of unions on the workers' side representing the different occupations in the industry. Sometimes, more than one union may represent the same occupation.

45. In general, industry-wide collective bargaining arrangements have been established on a voluntary basis, though there is a statutory obligation laid on the nationalised industries to set up collective bargaining machinery, and in other industries minimum wage-fixing bodies, i.e. Wages Councils and Agricultural Wages Boards, have been established by law. Wages Councils are described in more detail in the Ministry's fifth memorandum of evidence. It may be said here that they partake of some of the characteristics of voluntary collective bargaining arrangements, in that they involve negotiations between the two sides of the industries concerned with a view to reaching agreement. The main differences are (1) that statutory bodies include in their membership " independent " persons whose votes can settle an issue if there is disagreement between the two sides and (2) that the decisions reached by statutory bodies are given the force of law and enforced by an inspectorate.

46. The law intervenes to some extent in regard to voluntary agreements. By virtue of section 8 of the Terms and Conditions of Employment Act 1959 representative organisations of employers or of workers may invoke, through the Minister of Labour, the adjudication of the Industrial Court (which is more fully described in the fourth memorandum) in cases where it appears to the organisation that an employer is not observing the terms or conditions of employment which have been established for the industry in which he is engaged or terms not less favourable. If it appears to the Court that the claim is well-founded, the Court makes an award requiring the employer concerned to observe the " recognised terms or conditions " in the industry to which he belongs. An award made by the Court has effect as an implied term of the contracts of employment of the workers concerned.

47. Mention should also be made of the Fair Wages Resolution of the House of Commons of 14th October 1946, under which Government contractors are required to observe such terms and conditions as have been established, for the trade or industry in which they are engaged, by representative joint machinery. The resolution is more fully described in the fourth memorandum.

48. The Ministry of Labour lists some 500 pieces of negotiating machinery at the national level (including statutory wage fixing bodies) for manual workers alone. It is estimated that about 14 million manual workers are covered by such machinery out of a total of 16 million in employment. Collective bargaining arrangements for non-manual workers are found mainly in the public sector. It is estimated that less than 4 million non-manual workers out of a total of 7 millions in employment are covered by such arrangements. It will be noted that the number of workers covered by voluntary collective bargaining or by statutory wage fixing machinery—upwards of 18 millions in all—is considerably greater than the number of trade unionists—about 10 millions. Generally speaking, collective agreements are applied by employers to their employees whether unionists or non-unionists and, of course, in the case of the decisions reached by statutory bodies, they must be so applied.

49. In some industries, there are no standing arrangements for negotiation, e.g. in engineering, and the parties come together *ad hoc* to bargain. In many other industries, however, there are permanently established Joint Industrial Councils which meet regularly. The formation of these councils received a stimulus from the report of the Committee on the Relations between Employers and Employed under the Chairmanship of Mr. J. H. Whitley, M.P., which was set up in October 1916, and recommended the establishment of joint councils in well organised industries. The number of councils declined somewhat between the wars but rose again during and after the last war. At the present time, there are about 200 of them.

50. The picture is, therefore, a complicated one. Some idea of its complexity may be had from Appendix IX where the negotiating arrangements (voluntary and statutory) which, it is estimated, cover 100,000 or more workers are listed. The unions associated with each piece of machinery are also shown. In some industries there are separate Scottish negotiating bodies. A detailed description of some of the principal pieces of negotiating machinery is given in pages 27–122 of the Ministry of Labour's Industrial Relations Handbook.

(5) Industry-wide Collective Bargaining—Snbjects

51. Collective agreements at the industry level commonly lay down the standard hourly or weekly rate of wages to be paid to a worker who is rewarded according to the number of hours for which he works, i.e. the minimum time rate ; the normal hours of work, i.e. excluding overtime ; the minimum rate below which the earnings of piece-workers, i.e. workers paid according to the amount of work they do, shall not fall ; the number of days paid holiday per year ; and the rates of pay for hours worked outside normal hours. Current particulars of the most important agreements are listed in the annual publication of the Ministry of Labour " Time Rates of Wages and Hours of Work ". (A selection of important wage rates for men and for women is given in Appendices X and XI.) Agreements also cover such matters as the employment of apprentices, guaranteed week arrangements and working conditions generally.

52. It has been rare for these agreements to have a terminal date though some agreements have been concluded recently which have a fixed term. Agreements with a fixed term cannot be revised without the agreement of both sides until they have run their course unless, of course, there is provision in them for reviewing them in defined circumstances.

53. In a number of industries, there are agreements providing for the automatic adjustment of wage rates in accordance with changes in the official Index of Retail Prices. At the present time, it is estimated that about 2 million workers are covered by such arrangements. The great bulk of this total is accounted for by the building industry, civil engineering construction, iron and steel manufacture, the printing industry, furniture manufacture, boot and shoe manufacture and the hosiery industry. Further details of these " sliding scale " arrangements are given on pages 188 and 189 of the Industrial Relations Handbook.

54. The subjects within the scope of statutory minimum wage-fixing machinery are defined by statute. (See paragraph 5 of Section I of the fifth memorandum of evidence so far as Wages Councils are concerned.)

55. There is a certain amount of legislation regulating, for particular groups of workers, matters which are generally the subject of collective agreements. It may be convenient to mention the more important examples :—

(1) The Factories Act 1961 and related legislation impose certain restrictions on the hours of employment of women and young persons employed in factories.

(2) The Shops Act 1950 contains a number of provisions dealing with the conditions of employment of shop workers, i.e. statutory half-holidays, mealtimes, Sunday employment and hours of employment of young persons.

(3) The Baking Industry (Hours of Work) Act 1954 regulates the employment of men at night in bakeries.

(4) The Coal Mines Regulation Act 1908 limits the number of hours that coal-miners may spend underground.

56. In most industries, there are agreements laying down the procedure to be followed for discussing disputes which may arise between the two sides either at the national or the local level (though there is no provision in Wages Councils legislation for the drawing up of such procedures). It is unusual for procedure agreements to define closely the subjects of dispute which are covered but as a rule the effect of this in practice is that they extend to most issues arising.

57. It is common for procedures which apply to disputes arising at the level of the firm to provide for more than one stage of discussion, for example, between local union representatives and management, between more senior union representatives and the district employers' association, and between national union officials and the national employers' organisation. In industries which have Joint Industrial Councils, the final stage of discussion may be the Council itself or a committee of the Council. A variation sometimes found is that the intermediate stage of procedure may consist of examination by a visiting committee appointed *ad hoc* to deal with the dispute. As regards disputes which are national in scope, there may be no more than the one stage of procedure, i.e. a national conference or a discussion on the Joint Industrial Council, although, in practice, negotiations on national issues may include a stage when the matters in dispute are referred to a small joint body for detailed discussion.

58. Procedures usually provide that there shall be no strike or lock-out until the procedure laid down is exhausted. Even if this is not stipulated, it is implied in an agreement on a procedure of discussion.

59. In a considerable number of industries, including all the nationalised industries, the disputes procedures mention arbitration as a final method of settlement. In a few agreements there is an unqualified commitment to arbitration but, more usually, the agreement provides for arbitration only by agreement between the two parties. Certain industries have set up their own machinery for arbitration but, as a rule, agreements envisage arbitration under the Industrial Courts Act 1919 or otherwise through the Ministry of Labour. A small number of procedure agreements provide for reference to the Ministry of Labour for conciliation after discussions within the industry have been exhausted. The facilities provided by the Ministry for conciliation and arbitration are examined in the third and fourth memoranda respectively.

(6) Collective Bargaining at Plant and Shop Floor Level

Subjects

60. Among matters usually decided by local negotiations are piece-work rates and other forms of payment by results (though national agreements generally include minimum rates for workers paid by results and in a few industries piece-work prices are negotiated nationally), additions to wage rates such as " lieu " bonuses, and local working rules and practices (including the

manning of machines and demarcation questions). Local negotiations are not subject to any limits laid down in industry-wide negotiations but take place independently.

61. In the case of non-federated employers, i.e. employers not belonging to an association, the scope of negotiations is naturally wider and includes matters which would otherwise be settled nationally. Large non-federated firms may also have plant procedure agreements with trade unions, involving reference of a dispute through successive levels of the management and union hierarchies. Most of the well-known company agreements for the resolving of disputes do not contain any provision about arbitration.

Effect on earnings

62. The importance of local negotiations as a determinant of earnings has increased greatly since the war. Under conditions of full employment, many employers are willing to attract labour by offering the prospect of high earnings through payment by results schemes (often combined with ample opportunity for overtime) and bonus payments of various kinds. The effect is that earnings are now considerably higher than wage rates. While the average weekly earnings of men in April 1965 were 378s. 2d. (see Appendix XII), their wage rates (in August 1965) centred around £11–£12 a week (see Appendix X). Only part of the difference is attributable to overtime earnings. Moreover, earnings are rising faster than wage rates. This is illustrated by Appendix XIII, which shows the movement since 1950 in weekly wage rates and average weekly earnings.

Shop stewards

63. The local representative of the trade union at the place of work is usually the shop steward. Shop stewards are normally elected by the union members in the shop, though their appointments are often subject to union confirmation. They continue in employment in the plant and on the employer's payroll. They may receive payments from the union for some of their union work (e.g. collection of dues) but these are not usually large. Where there is joint consultative machinery (see paras. 68–72), shop stewards may be elected as the workers' representatives ; in a small but increasing number of firms the workers' side of the joint consultative committee may be chosen entirely from among the shop stewards.

64. In large works where different unions are represented a shop stewards' committee may be formed under the chairmanship of one of their members.

65. Growing up as they did on an occupational basis, most unions developed as their basic organisational unit the branch, catering for all members in its area, rather than the place of work, and today most local union officials are branch officials. The bond uniting members of the same union was a common occupation, not a common place of work. But today the branch and its officials may be geographically remote from the individual member and his main common interests are often with the other employees at his place of work rather than his fellow union members. His main contact with the union is through the shop steward. This factor, along with the importance for earnings of local negotiations between management and shop stewards, has greatly increased shop stewards' influence over union members. If workers are given any reason to believe that strikes called by a shop steward bring quicker concessions from their employer than negotiations through the union, this will also greatly increase the influence of the shop steward at the expense of the union.

66. Shop stewards have acquired a reputation for association with unofficial action. To what extent is this justified? Probably some shop stewards are naturally militant; a few may reasonably be categorised as trouble-makers. But nearly all have to carry a heavy responsibility for the conduct of local negotiations, in connection with which they come under pressure from their shop floor members to achieve favourable results. There is a tendency for them to assume all the powers they regard as necessary for the purpose of these negotiations, including the right to call strikes. They may feel that agreed disputes procedures are an unnecessary impediment, especially if these involve negotiations at higher levels which may cause impatience among their members.

67. The shop steward system had its origin in the militant activities of workers' representatives in engineering during the first world war, which aroused hostility in many quarters among both employers and trade union officials. Today the need for shop stewards is universally accepted, but the growth in their importance has not been accompanied by a full integration of their activities into the unions' structure, and in many unions their functions and the extent of their authority are not clearly defined.

(7) Joint Consultation

68. Consultation is generally understood to mean the discussion between management and workers in an establishment of matters of joint concern which are not the subject of negotiation with trade unions. The precise boundary between consultation and negotiation is, however, difficult to draw.

History

69. Before 1914 a few firms had arrangements for consultation and joint consultative bodies increased considerably during the first war. The establishment of joint works committees was an important part of the recommendations of the Whitley Committee (see para. 49) which looked to them to improve relations and co-operation by giving workpeople a greater share in the consideration of matters affecting their work and working conditions. The Whitley Committee envisaged that the workers' representatives on the joint works committees would be trade union members, to avoid the possibility of undermining trade union development. Even so, the committees were not to interfere in matters settled by national agreements, though it was considered that they could discuss issues of interpretation with regard to local conditions, including methods of fixing and adjusting wages and earnings.

70. The practice of joint consultation did not spread widely in industry in the inter-war years and where it did exist it was largely confined to matters affecting the application of recognised terms and conditions of employment or matters of welfare and works amenities. Its development was impeded by fears among employers that managerial prerogatives would be undermined and among trade unions that joint committees might cut across general union policy. There was, however, a small number of firms which set up works and staff councils during this period in a deliberate endeavour to improve relationships and co-operation between themselves and their employees. Their experience has had a considerable influence on later thought and practice. The second world war gave further impetus to joint consultation, particularly in the form of joint production committees. Many committees ceased to exist after 1945 but in 1948–50 fresh efforts were made by the Government to encourage joint consultation and the nationalisation Acts included statutory provision for consultative machinery.

Present extent

71. It is impossible to measure the extent and efficacy of joint consultation by counting up the number of committees and no formal statistics have ever been collected. Joint consultation is highly developed both in the nationalised industries and in the civil service. Outside these sectors its extent varies considerably from industry to industry and from one part of the country to another. An informal check carried out in 1957 by the Ministry of Labour indicated that only about a third of the plants with over 500 employees were known to have some form of consultative machinery. It is thought that almost all of the largest firms in manufacturing industry have some form of consultative machinery.

Scope

72. There is more general agreement about what is not the purpose of joint consultation than about what its purpose is. This is because in the past employers have emphasised that it should not be regarded as a form of participation by workers in management and trade unionists have sought to safeguard their bargaining functions from any encroachment by consultative bodies. At the same time, the importance of the contribution which joint consultation can make towards improving management's and workpeople's understanding of each other's point of view is widely recognised. Essentially, joint consultation provides a means of communication and an opportunity to discuss management's plans and workers' problems in an atmosphere rather different from that which characterises negotiation. Technically management reserves the right of decision but in practice the proceedings of many committees form the basis of decisions. A joint consultative committee functions most effectively when management is ready to discuss important issues and workers' representatives genuinely represent their constituents and keep them informed about matters discussed. Failing this, consultation has little impact on relations within the establishment and consultative machinery may become fossilised and of negligible value. There is evidence of a tendency in recent years for managements to prefer informal arrangements for consulting their workpeople and not to rely on formal consultative machinery.

Communications

73. It is important not only that management should take workpeople's views into account but also that its own channels of communication to workers should be effective. Relations can easily be affected by misunderstandings of management actions. Particularly in large organisations, much attention has been given to methods of ensuring that workers are informed about management's plans and objectives and the reasons for them. A study of communications was published by the Ministry of Labour in 1963* and in 1964 the then Minister held a conference of leading industrialists in London on the subject, followed by conferences in Newcastle-on-Tyne and Glasgow. A wide variety of methods may be used for communications (e.g. house journals) ; besides formal channels, many managers today emphasise the scope for informal techniques (including regular personal contact) even in large organisations.

Profit-sharing

74. It may be convenient to mention at this point the profit-sharing schemes run by a number of firms. According to a survey made by the Ministry in 1954 there were rather more than 500 firms running such schemes and the position is not believed to have changed much since then. A fairly small proportion of

* People at Work (H.M.S.O. 1963 : 2s. 6d.).

schemes involved arrangements (commonly known as co-partnership) under which the employees shared in some degree in the control of the firm, e.g. by holding shares with voting rights. Profit-sharing schemes have only a limited incentive effect but some firms run schemes (collective incentive bonus schemes) under which employees receive a bonus varying with changes in labour costs per unit of production or sales. An idea which is spreading in a number of European countries is that of giving workers a part of their remuneration in the form of capital (not necessarily as shares in the firm for which they work).

(8) Personnel Management

Introduction

75. The appointment by many firms of personnel officers with special responsibilities in the field of labour relations, employee recruitment and selection, welfare, staff training and communications constitutes a significant development in industrial relations in the last 30 to 40 years. At the same time, industrial experience and social science research both here and in the United States have emphasised the influence which management policies and practices have on relations between employers and employees at the level of the individual firm. There has consequently been a growing recognition among managers generally of the nature of their own responsibilities for personnel matters.

76. These developments have not been consistent or universally acceptable. Some industries and regions have taken more readily to new ideas than others. Organisations which are insulated from the effects of social and economic changes by monopolistic trading conditions, by traditional attitudes and practices on both sides of industry and even by the good relations which over generations the firm has established with its employees have not felt the need to change. Even so there are probably few organisations which have entirely escaped the influence of the basic ideas associated with the development of personnel management.

History

77. Modern personnel management had its beginnings in this country in the desire of a number of socially responsible employers to improve working conditions in their factories, particularly for women and young persons. A number of firms had appointed welfare officers, mainly women, before the first world war and the Association of Industrial Welfare Workers (the present Institute of Personnel Management) was set up in 1913. The war itself brought a number of developments which were to be of lasting significance, including the establishment of the Industrial Welfare Department of the Ministry of Munitions in 1916, which was to assist in promoting the foundation of the Industrial Welfare Society in 1918 and the National Institute of Industrial Psychology in 1921.

78. Although the work of these bodies and others had made out a substantial case for taking greater account of the individual in the work situation, the economic strains of the inter-war years prevented the greater part of industry from giving much attention to the problem during this period. With a few outstanding exceptions, much of the development which did take place was in the expanding consumer goods industries. The term "personnel manager" was rarely used ; the usual description of the specialist officer was either " welfare officer " or " labour officer ". The functions of the welfare officer were usually limited to the recruitment, selection and welfare of employees, but the labour officer was more actively concerned in industrial relations and, in firms not in membership of an employers' association, frequently acted as the firm's chief negotiator with

the trade unions. The Factory Inspectorate did much to promote the appointment of labour/welfare officers and, with the Institute of Personnel Management (at that time called the Institute of Labour Management), encouraged the training, at university schools of social science, of candidates for such appointments.

79. The situation changed very rapidly after 1940 when the combination of pressure for war production coupled with the acute shortage of labour, the influx into industry of workers unused to factory life and the operation of the Essential Work Orders showed that it was necessary to have someone in each firm to deal with labour matters.

80. After the second world war, pressure for increased production continued and in conditions of full employment the proper use of manpower retained its wartime importance. An increasing number of firms came to believe that some kind of planned approach to personnel management was an economic necessity. A number of other factors also wielded a strong influence. New social and political ideas, higher standards of education, the continuing strength of trade unionism, increasing mechanisation and the growth in size of undertakings, all compelled employers to give more systematic thought to the management of people. Firms were not, therefore, tempted to economise in the field of personnel management as they were after the first world war.

Scope of personnel management

81. While these developments were taking place the concept of personnel management evolved from a narrow concern with welfare, recruitment, etc., to an awareness on the part of management of the importance of people, and of their relationship with each other, to the performance of the organisation as a whole. It came to be accepted that every decision or act of management had some impact on employees. The objectives of this new concept of personnel management may be seen most clearly by reference to the responsibilities of a specialist personnel department but the duties described below ideally require attention in any firm whether it employs a personnel officer or not.

82. The manning of an organisation with an appropriately trained labour force is regarded as a primary function of personnel management. This may involve such matters as the budgeting of manpower requirements, knowing where and how to recruit labour, how to select new employees and how to provide for their introduction into the firm and allocation to jobs appropriate to their abilities. It may also require the planning of a redundancy scheme. The provision and administration of welfare facilities has been accepted from the earliest days as a part of personnel management. Problems of labour turnover, promotion and discipline, which all require an efficient system of personnel records, are now also widely accepted as within its scope. So are the training and development of staff at all levels. The determination of wage and salary structure, relations with employees and trade unions, the establishment of consultative machinery and of other channels of communication of information and ideas throughout the organisation are also seen as part of personnel work. Finally there has been an increasing awareness in recent years of the effect of organisational structure on efficiency and on good relations within a firm, and the identification and resolution of problems which arise from inappropriate structures or from changes due to technological and administrative developments are now seen as an important task for a personnel department. This is the ideal picture. The extent to which these functions form part of personnel administration in industry and commerce varies widely in practice and comparatively few firms would cover them all.

Role and Status of the personnel officer

83. In a small unit a production or " line " manager can deal with most aspects of personnel management as part of his responsibilities and can adopt modern methods and techniques of doing so if he can take the trouble to get to know about them. Most firms of any size, however, now appoint a " personnel officer " to carry out some or all of the functions referred to above. The membership of the Institute of Personnel Management, which is essentially composed of practising personnel officers, stood in 1964 at 6,000, but this by no means represents the total number of personnel officers in industry and commerce. Some of those who carry the title would not meet the professional requirements for membership of the Institute and others simply do not apply.

84. There is still a wide divergence both of views and practice on the status and role of a personnel officer. In theory the role of personnel officer is an advisory one, to top management on personnel policy and to line managers on the implementation of the policy. This description underlines the fact that the personnel officer does not relieve the manager of his responsibility for the direct management of his own staff, but it is to some extent an over-simplification. In addition to assisting in the formulation of policy, the personnel department commonly provides certain services for management which are more efficiently met from a central point in the organisation, and the personnel officer may frequently be involved in various activities in what is virtually an executive capacity. In many companies he is the firm's chief negotiator with the trade unions or may represent his company on the appropriate committees of the employers' association.

85. Personnel management in this country has succeeded in avoiding the criticism that it is an anti-union tool of management concerned with the manipulation of the workers, which has been levelled at the profession in the United States and in some European countries. However, the contribution which personnel management could have made and could make would be much greater if large sections of industry did not still regard it as something apart from the main stream of management and if the horizons of many personnel officers were not limited to the provision of limited common services or to dealing with day-to-day industrial relations questions.

86. There are signs that this situation is changing. More personnel officers are assuming responsibilities in regard to clerical and administrative staff and management development, instead of confining their activities to the problems of manual workers. There is a trend towards the allocation of responsibility for personnel management to a member of the Board. Furthermore, in an increasing number of cases the specialist personnel officer has been appointed to the Board.

B. APPRAISAL

(1) General Social and Economic Advance—

Objectives of Collective Bargaining

Objectives of Joint Statement compared with traditional objectives of collective bargaining

87. The Royal Commission is required by its terms of reference to consider " the role of trade unions and employers' associations in promoting the interests of their members and in accelerating the social and economic advance of the nation ". In considering the contribution to be made by trade unions and employers' associations to " accelerating the social and economic advance of the

nation ", it is a convenient starting point to consider the general objectives and purposes to wbich the T.U.C., the employers' organisations and tbe Government are committed by the Joint Statement of Intent on Productivity, Prices and Incomes and the later White Papers (see para. 43). The cardinal objectives are full employment, higher productivity and efficiency ; price stability ; and tbe general growth of incomes in line with tbe growth of productivity.

88. In tbeir capacity as collective bargainers, trade unions and employers' associations have a particular responsibility for determining the increase in wages and salaries. Wages and salaries are the most important constituents of total incomes, comprising about two-thirds of the whole.

89. Not all wages and salaries are determined by collective bargaining. It has been pointed out in para. 48 that an estimated 18 million out of 23 million employees are covered by voluntary collective bargaining and statutory wage fixing machinery. The remaining 5 million workers are all in the private sector ; 3 millions are non-manual workers and 2 millions manual. The 3 million non-manual workers are probably tbe great majority of non-manual workers in tbe private sector. The 2 million manual workers are spread widely, though there are some notable concentrations, e.g. in domestic service. It seems likely, however, that tbe wages and salaries of the 5 million workers not covered by collective bargaining or statutory machinery are greatly influenced by the level of wages and salaries of comparable workers wbo are covered.

90. It is, therefore, crucial to the proposition that the general growth of incomes should keep in line with the growth of productivity that tbe wage (and salary) increases agreed between trade unions and employers should be settled in accordance with criteria of general application. Yet, in the process of collective bargaining, the historical aim of each trade union is to obtain the best possible bargain for the members it represents. With some qualifications this means the highest possible wage increase at any particular time. The traditional objective of employers has been to avoid increases which would increase their costs to a point where tbe consequences for prices affect their markets and tbe profitability of tbeir operations to an unacceptable degree. The system of collective bargaining in the past has not, except on certain occasions, e.g. the " wage freeze " accepted by the T.U.C. in 1948 under tbe first Labour Government after the war, been regarded by employers and trade unions as including an obligation to take account of the national interest on the lines defined in tbe Statement of Intent and the White Paper " Prices and Incomes Policy ". This bas meant, in the economic situation whicb has existed in tbe United Kingdom since the war, that wage increases have consistently outstripped increases in productivity.

91. The figures in Appendix XIV show that the gross domestic product (measured at constant 1958 prices) has been increasing fairly steadily since 1950 tbougb tbere have been variations in the rate of increase. As the same Appendix shows, gross domestic incomes have been increasing in the same period at a very much faster rate. While the gross domestic product went up by 49·1 per cent. between 1950 and 1964, domestic incomes increased by 151·8 per cent. The wages and salaries component of domestic incomes went up by 155·5 per cent.

92. The agreement between the Government, T.U.C. and employers' organisations in the Statement of Intent, and the subsequent White Papers, did not imply that collective bargaining could not continue. Tbese did, however, raise the question of whether tbere would need to be changes in the operation of collective bargaining if the general objectives and purposes laid down in the Statement and the traditional objectives of collective bargaining were to be reconciled. Recent developments on prices and incomes policy will be described

in a memorandum of evidence which will be submitted to the Royal Commission by the Department of Economic Affairs. The following paragraphs examine some general implications for existing institutions in the industrial relations field.

Questions raised by Joint Statement for existing institutions in the industrial relations field

93. The commitment of the T.U.C. and the employers' associations to the objectives of the Joint Statement raises a series of questions :

(a) How far can the central bodies of workers and employers influence the actions of their members so that they in turn assist towards the achievements of the general objectives?

(b) What changes will be necessary in the process of collective bargaining at the national level? Will these be so radical as to change the whole approach? Will the central organisations have to play a part?

(c) How far will employers' associations and trade unions be able to influence bargaining at the plant and shop floor level?

(d) What can employers' associations (and trade unions) do to minimise the effects of increases in wages and salaries on costs and prices?

(e) What should employers' associations do to dissuade their members from bidding against each other in a difficult labour market and what can they do?

94. The C.B.I. is a co-ordinating body and its constituent associations of employers and individual firms enjoy a theoretically complete freedom of action. The same kind of situation exists as between the employers' associations at the industry level and individual employers. In practice, however, the constituents of both the C.B.I. and of employers' associations presumably accept obligations arising from agreements entered into by the organisations to which they belong. It has not, for example, been thought unusual in the past for employers' associations, in varying degrees, to put pressure on their members not to exceed the terms of national agreements.

95. The T.U.C. is in much the same position in relation to affiliated trade unions. But again unions presumably accept obligations arising from agreements entered into by the T.U.C. and, of course, the General Council of the T.U.C. includes the leaders of the most important trade unions in the country. Within each trade union there is the problem of ensuring that groups of members at the level of the plant act in conformity with the policies pursued by the union at the national level. Shop stewards, who are usually the union's spokesmen on the shop floor (see paras. 63 to 67), sometimes act in defiance of the authority of their unions.

96. It is another aspect of the same problem that local negotiations are often pursued independently of national negotiations. The attainment of the objectives of the Joint Statement and of the prices and incomes policy would seem to require that national and local negotiations should be brought into a closer relationship with one another than at present.

97. Another kind of problem is raised by the emphasis placed in the Joint Statement on increasing productivity. This is to a large extent a matter of increased investment and technical innovation but an important contribution can be made by the more efficient use of labour in a situation where the other factors of production remain unchanged. In some circumstances, this may mean for the unions and their members agreeing to changes in the ways of

carrying out work and of controlling the supply of labour which they have, in the past, perhaps with good reason at the time, induced employers to accept and which they have since upheld. Such arrangements may be embodied in formal agreements or rest merely on informal understandings. If they are to be changed, it is necessary, therefore, that the trade unions concerned should be satisfied that established practices are no longer necessary in the interests of their members and that those interests are better served by a change.

98. It has been suggested that changes should be made the subject of collective bargaining. The argument is that, when gains in productivity are achieved at the expense of major changes in the conditions of employment of labour, it is not unreasonable that the workers concerned should share in the fruits of the change in the form of increased wages. There have been some notable examples of agreements of this kind in recent years, e.g. the agreement documented by Mr. Allan Flanders in his book " The Fawley Productivity Agreements " (1964). Such an agreement is not necessarily incompatible with incomes policy, provided the increase in productivity is big enough to cover the wage increase involved and to leave a margin for the benefit of the rest of the community in the shape of lower prices. There are, however, very real dangers involved. It is possible, for example, that local productivity agreements may involve changes in wages which are a departure from the nationally agreed rates. There is then the danger that the changes, which may be justified so far as the firm itself is concerned, will set standards which other employers will imitate or be compelled to imitate without the justification of increased productivity.

Industrial training

99. One method by which productivity can be improved (over a period) is to improve the efficiency of the labour force by good training. This is particularly important in relation to the skilled crafts where persistent shortages of labour have existed since the war.

100. Both employers' organisations and trade unions have an important interest in industrial training, either as a function of management or as a means of exercising some control over the number and quality of skilled workers. This interest has been reflected in the numerous joint training agreements which have been reached since the end of the second world war between employers' organisations and trade unions.

101. At present, there are more than one hundred national joint recruitment and training agreements known to the Ministry of Labour. Most are restricted to apprenticeships or learnerships for young people. Generally provision is made for indentures or similar form of written agreement ; for specified periods of training varying from three to five years ; for permissive or obligatory day release (or equivalent block release) with pay for further education ; and for registration with, and the reference of disputes to, the national joint body or local joint committees.

102. Although by no means all apprentices or trainees (in industries in which there are joint agreements) are registered under these agreements or trained in accordance with them, it is fair to say that the agreements have established a pattern and standard of formal training in industry. There have, however, been important limitations in these agreements—or in the approach to them of the parties concerned :—

(a) There has been a tendency towards a greater emphasis on apprenticeship as a condition of employment than as a form of training and some agreements have concentrated more on the age at which adult wage rates become payable or on restrictions on entry to a trade than on training needs

and manpower requirements. Within the last few years, however, more attention has been given in some industries to measures aimed at reducing the length of apprenticeships and more flexible age-at-entry arrangements.

(b) Many agreements give no detailed guidance about the syllabuses to be followed during training. Some rely on the educational course recommendations of the City and Guilds of London Institute or other examining bodies, which have advisory committees composed of the appropriate employer, employee and educational representatives. This very often means that systematic training begins and ends with day or block release to the technical college. There is little control by the parties to agreements over the standard of training in an individual firm except, indirectly, in the investigation of complaints.

(c) Not all employers' organisations have been active in mobilising support for joint agreements and agreements may not be adopted by anything like the majority of employers.

103. In addition to their activities in the field of training for manual workers and particularly apprentices, employers' organisations have also given attention to the improvement of training at supervisory and higher management levels. The Industrial Training Act covers management training and the Central Training Council has under consideration the establishment of a committee to enable the Council to advise Training Boards on this. There has been a widening interest over the last few years in training at these levels, as is evidenced by the establishment of the two British business schools in Manchester and London. The danger is that the increasing provision of training facilities will not be matched by an increasing interest on the part of the firms that ought to be sending their managers and supervisors for training. It is in encouraging this interest that there is probably scope for further efforts to be made by employers' organisations. It may be that the coming together in the C.B.I. of the employers' organisations concerned with conditions of employment and those concerned with trade and general problems will facilitate the pursuit of active training policies.

104. On the trade union side there has been little continuing concern with training outside the apprenticeship field. On the whole, unions in most industries have not pressed for the establishment of formal training schemes for semi-skilled workers ; and they have on occasions been opposed to the expansion of training opportunities for adult workers. The explanation for these attitudes is, perhaps, partly that the trade unions are interested mainly in wages and related conditions of employment, and in maintaining a strong bargaining position vis-à-vis the employers' organisations. It is also possible that, being primarily trade based rather than industrially organised, many unions have no powerful incentive to press for the improvement of the training arrangements in a particular industry, as opposed to maintaining the status of particular trades. Finally, it may be pertinent to add that few trade unions have the expert staff which would enable them to take the initiative in improving training methods.

105. Reference was made in the previous paragraph to the lack of enthusiasm of many trade unions for training schemes for adult workers. This has sometimes proved a difficulty in the development of the Government Training Centres (G.T.C.s) which provide intensive courses for adults, usually of six months' duration, in a variety of trades. In order to help meet the persistent shortages of skilled labour, particularly in building and engineering, successive Governments have since 1963 increased the number of G.T.C.s from 13, with less than 2,500 training places, up to 28, with more than 5,000 places, by August 1965 ; and further expansion is planned up to a total of 36 with 8,000 places.

The Ministry of Labour consults representatives of employers' associations and trade unions to agree schemes of training, including the conditions under which trainees are to be placed in jobs when they leave G.T.C.s. In the main the trade unions, at the national level, have shown willingness to co-operate with the development of this adult training programme, though seldom much enthusiasm ; but even where there is agreement at national level there may still be trouble about placing trainees in particular areas, because local branches have autonomy in the matter of granting membership.

106. In general therefore the attitude of employers' associations and trade unions towards improving efficiency of training has not been noticeably constructive. Following the report of a sub-committee of the National Joint Advisory Council (the Carr Report) an effort was made by the B.E.C., T.U.C. and nationalised industries to improve the situation by the establishment of the Industrial Training Council, a body quite independent of the Government. But although the Council did some useful work, by encouraging an increased intake of apprentices in the years of the ' bulge ' (when a greatly increased number of school leavers entered industry as a result of the increased birth rate after the war), by producing some useful pamphlets on training and by establishing a small but efficient Training Advisory Service, it became evident that it was making little impression on the large body of firms which took little interest in training. The need for Government intervention to meet national needs became more and more apparent and led to the Industrial Training Act—see para. 112.

Contribution of collective bargaining to social advance

107. Although the system of voluntary collective bargaining has given rise to the difficult problems which have been discussed in paragraphs 87 to 106 above, it has also made a measurable contribution to social advance.

108. On all the basic conditions of employment—pay, hours of work and holidays—reasonable standards have been widely established as a result of bargaining at the industry level. Between 1939 (August) and 1965 (May), the index of wage rates increased by 280 per cent. Between October 1938 and April 1965 the average earnings of men rose from 69s. to 378s. 2d. a week. Before the war, agreed normal hours of work were commonly 47 or 48 a week. After the war, there was a reduction to 44 or 45 a week, a further reduction to 42 in 1959 and 1960 and, at the present day, there is a movement towards a general 40 hour week. The 5-day week is fairly general. In 1938, a Committee of Inquiry appointed by the Minister of Labour under the Chairmanship of Lord Amulree reported that only a little over 40 per cent. of manual workers or non-manual workers in receipt of £250 a year or less were provided with annual consecutive holidays with pay. The Committee also recommended that an annual holiday with pay equivalent to the working week should be established without undue delay. This was quickly accomplished in a series of collective agreements, and statutory intervention which had been envisaged by the Committee was unnecessary. Since then, the number of weeks paid holiday has risen generally to two a year and, in addition, six public holidays are usually paid for by employers. In some industries workers enjoy more than two weeks paid holiday, the additional days, especially in the case of manual workers, often being related to length of service.

109. There have, therefore, been substantial improvements in the last 25 years, in terms and conditions of employment. These have been made possible by a much more effective representation of workers' interests and a greater readiness to take account of workers' interests at all the three main levels of

discussion—at the top, at the industry level and at the local level. The developments of national bodies like the National Joint Advisory Council and the National Economic Development Council for discussion between the two sides of industry and the Government has been described in paragraphs 36 to 43 above. This was a development of the war years and after. At the industry level, national negotiations were spreading in the early part of the century and were given a considerable impetus by the first world war. The second world war provided a further stimulus. For example, compared with 45 Joint Industrial Councils in 1938, there were 200 Councils or bodies of similar character in 1960. At the local level, the greater recognition of employees' interests has been exemplified by the increasing attention give to personnel management as a distinct and often specialised function of management and by the spread of joint consultation.

110. The system is, therefore, an impressive one, whether judged by the scope of its activities or the extent of its achievements. It has grown in response to the needs of the time and it is in consequence complex and does not conform to any simple pattern. Correspondingly, the system of wages, which has been its main creation, is complex and defies any simple analysis. It has been criticised as being unduly complicated. On the other hand it can be argued that the system is, in fact, one in very delicate balance, and produces results which are reasonably satisfying to those immediately concerned. At the very least, it can be said that the system, however complicated, works and in some ways works well.

Security of employment

111. While collective bargaining has established itself firmly throughout the economy so that the wages, hours and holidays of the great majority of workers are settled by such bargaining, the scope of its subject matter is relatively narrow by comparison with some other countries like the U.S.A. (though it has to be remembered that some subjects may be covered by informal understandings between employers and workers and, also, that there is in the U.K. a relatively highly developed system of social security provided by the State). One area which has been relatively neglected may be described broadly as " security of employment ". Such matters as the period of notice of dismissal, arrangements for dealing with possible redundancies, sick pay, pension schemes and the circumstances justifying individual dismissal have not been the subject of collective bargaining for workers generally. Some of them, like sick pay schemes, have been increasingly a subject for negotiation in recent years though, even here, less than half of manual workers in the private sector of industry are covered by such schemes. (All workers in the public sector are covered and most non-manual workers in the private sector.) The picture is much the same so far as occupational pension schemes are concerned.

112. In other directions, there has been a development of legislation in recent years to deal with problems that collective bargaining has not covered. The Contracts of Employment Act 1963 provides that an employer must give an employee at least one week's notice of dismissal if the employee has been with him continuously for 26 weeks or more, two weeks if the employee has been with him for two years or more and four weeks if he has been with him for five years or more. The Redundancy Payments Act 1965 provides that in the event of redundancy after a minimum of two years' service a worker is entitled to half a week's pay in respect of each year of his service between the ages of 18 and 21, one week's pay in respect of each year's service between the ages of 22 and 40 and one-and-a-half weeks' pay for each year's service between 41 and 65 (60 in the case of women). There is a maximum entitlement based on 20 years' service and a limit of £40 a week to the amount of pay on which the

redundancy payment is calculated. A proportion of each payment amounting on average to 70 per cent. comes from a fund financed hy all employers through a surcharge on the National Insurance stamp ; the remainder falls on the employer concerned. The Industrial Training Act 1964 is also relevant. Under this Act, the Minister of Lahour has power to set up Industrial Training Boards responsihle for seeing that the quantity and quality of training are adequate to meet the needs of the industries for which they are estahlished. Nine Boards have been established up to the end of July 1965. The Boards have powers to impose a levy on employers in the industries for which they are established and to make grants to those employers whose training courses are approved.

113. The Ministry is also considering the problem of providing safeguards against the arhitrary dismissal of workers. A committee of the National Joint Advisory Council has been set up to study the matter. The present position in the U.K. depends on the fact that employment is governed by the contract of employment between employer and employee. Suhject to certain conditions, either party is free to end the contract. Dismissal is, therefore, effectively at the will of the employer, and it is most unusual for a worker to have a right of appeal against dismissal to a person or hody other than his own employer. This does not necessarily mean that workers suffer in practice to any great extent from arhitrary dismissal. Most employers behave humanely and they are, in any case, conscious of the need to preserve good relations with their work force, particularly at a time when lahour is not in plentiful supply. Moreover, disputes procedures agreed hetween employers or employers' associations and trade unions are often competent to deal with cases of dismissal, though this is not a complete safeguard for the individual worker hecause it depends upon a union being willing to take up his case. As a minimum it seems desirable for a firm to have a set procedure for handling dismissals which ensures that workers know where they stand even if the last word still rests with management. Such a procedure should estahlish who has the authority to dismiss, provide for appeal to a higher level in the firm's organisation and, as appropriate, for consultation with trade unions.

114. The prohlem of security affects manual workers more than non-manual workers who prohably enjoy a greater security of tenure. Non-manual workers in general have higher qualifications and often possess a knowledge of the firm's organisation and policies which is not easily replaceable. If a firm enters a period of reduced activity it may discharge manual workers in expectation of being ahle to replace them later, hut it will usually retain its non-manual workers as long as it can. Moreover, the earnings of non-manual workers are more consistently maintained. Non-manual workers are usually paid a "salary" hy the week or hy the month, which they receive irrespective of interruptions to their work caused by lack of work for them to perform or sickness. By contrast, the manual worker is, generally speaking, paid by the hour and not necessarily recompensed in respect of interruptions due to sickness, shortage of raw materials (when he may be laid off) and so on. His pay may regularly consist in part of overtime earnings which tend to fluctuate. To some extent, the manual worker's earnings are protected by guaranteed week agreements negotiated between employers and trade unions or hy similar provision made in Wages Regulation Orders. Under these arrangements, which prohably cover rather more than one half of all manual workers, a worker is entitled to a certain minimum payment in any week whatever the amount of work made availahle to him hy his employer. This minimum is not necessarily full standard wages hut in ahout half of all cases is an amount between two-thirds and four-fifths of a standard week's wages. Sick pay schemes are also spreading among manual workers.

115. While it is clear that the increase in security of employment which would result from an extension of collective bargaining into that field would represent a social advance, such an increase would also have important implications for industrial relations and for the economic well-being of the nation. At first sight, greater security of employment might appear to be incompatible with the greater mobility of labour needed in an age of technological change and rapidly changing markets. It has, however, to be remembered that a considerable redistribution of the labour force between industries, between occupations and between regions can be obtained through the normal turnover of the working population as a result of retirements and young people entering the labour force, as a result of migration in and out of the country and through the considerable amount of voluntary job changing which takes place. An individual employer can take advantage of this by foreseeing and planning changes in his labour force. Thus, he can reduce its size by allowing natural wastage to outstrip recruitment without the necessity for dismissals. He can also alter its occupational make-up by retraining his workers. Such arrangements can be made the subject of negotiations with trade unions and, in regard to the transfer of workers from one occupation to another after training, may be dependent upon union agreement. If changes in a firm's labour force are made the subject of agreement in this way, workers are far less likely to resist them. On the other hand, they may be expected to oppose change if it menaces their security of employment and if they are not satisfied that everything has been done to reduce this threat to a minimum or to provide adequate compensation.

116. Economic and technological changes nevertheless must result in some people moving from one job to another at some time in their working lives. This may also mean a change of occupation or a move to another part of the country. Fears of the hardship which such changes can bring may cause workers to adopt restrictive practices which hinder efficiency and the adoption of new methods of working. A great deal can be done in the individual firm as indicated in the preceding paragraph but the State must also make a substantial contribution. The reduction of hardship to the individual worker caused by economic and technological change and thus of the resistance to that change is an important objective of Government policy today. References have already been made to the Redundancy Payments Act and the Industrial Training Act. A further problem which is being studied by a committee under Ministry of Labour chairmanship is the preservation of accrued pension rights when a worker moves from one job to another. The Government are also examining as part of a general review of social security the possibility of introducing a scheme for wage-related unemployment benefit. Finally, the maintenance of full employment coupled with the provision of an efficient employment exchange service is also essential to minimise the period of unemployment between jobs.

The lowest paid workers

117. There have been a few collective agreements recently under which the lowest paid workers have received a larger proportionate wage increase than the other workers covered. In general, however, the spread of earnings around the average did not alter much between 1938 and 1960 (surveys were carried out by the Ministry of Labour in these years) and has probably not altered much since. In 1960 nearly 10 per cent. of the men covered by the survey earned less than £10 a week : the average weekly earnings of all the men covered were £14 10s. 8d. Nearly 90 per cent. of the women covered by the survey earned less than £10 a week and their average weekly earnings were £7 8s. 4d. Since 1960 earnings generally have risen by about 30 per cent. and retail prices by about 18 per cent.

118. There are social arguments for improving the position of the lowest paid, which suggest that there may be a case, following the trend in agreements recently, for more attention to be paid to the position of these workers in collective bargaining.

Workers' grievances

119. This subject is dealt with in detail in the Ministry's second memorandum. The point to be made here is that there is scope for an extension of collective bargaining to establish agreed standards where needed and to cover the procedures for handling these grievances. There is a case for this on social grounds but it would also have a contribution to make to the preservation of good industrial relations by removing, in some degree at least, a fruitful cause of disputes.

Relationship between collective bargaining and joint consultation

120. Collective bargaining has, therefore, considerable achievements to its credit, but there remain fields which are relatively unexplored. In the past, some of these subjects have been thought more appropriate for joint consultative machinery than for negotiation. A sharp distinction has been drawn between the two along the lines that the subjects appropriate to joint consultation are those within the prerogative of management, on which it is not necessary to get the agreement of the workers. This may have been too sharp a distinction and resulted in little progress being made with the subjects dealt with on a consultative basis. For this situation both managements and unions have a share of responsibility. It would seem desirable that a degree of accommodation should be reached between managements and unions in regard to the matters discussed through both channels, though the degree to which managements will feel it necessary to adapt their policies to suit the wishes of the unions may vary somewhat from subject to subject. This is not to say that there is not a place for joint consultation as a means of communication between management and workers. Where joint consultative bodies have proved disappointing, it may have been because they were regarded as a kind of second-rate negotiating body.

(2) Industrial Peace

121. One of the main effects of the collective bargaining system has been the development of voluntary procedures for the peaceful settlement of disputes. It has always been a major object of Government action in this field to encourage the development of voluntary machinery, on the grounds that the best hopes for industrial peace lay in agreements reached between the two sides of an industry and commanding their assent. It is often argued, however, that this system does not succeed in reducing industrial conflict to a tolerable level and that some form of Government intervention, legislative or otherwise, is needed.

History and extent of strike problem

122. Appendix XV shows the number of stoppages, the number of workers involved and the number of working days lost in the United Kingdom in each of the years 1914–1964. The varying trends in the number of stoppages beginning per year and workers involved and time lost in them over that period may be summarised as follows :

Period	Average number of stoppages per year	Average number of workers involved per year	Average number of working days lost per year
1914—1918	814	632,000	5,292,000
1919—1921	1,241	2,108,000	49,053,000
1922—1932*	479*	395,000*	7,631,000*
1933—1939	735	295,000	1,694,000
1940—1944	1,491	499,000	1,816,000
1945—1954	1,791	545,000	2,073,000
1955—1964	2,521	1,116,000	3,889,000

* Excluding 1926, the year of the General Strike and coalmining dispute, when over 162 million days were lost.

Days lost rose to an all-time peak (apart from 1926) in the three years after the 1914–18 war, and stoppages were also very numerous. Up to 1932 the average figure for days lost continued to be very high, judged by present-day standards, though tbe average number of stoppages eacb year was comparatively small. After 1932, days lost fell to a much lower level though the number of stoppages rose. In 1940 the number of days lost was one of the lowest ever recorded (940,000) but there was a steady increase during the war both in days lost and tbe number of stoppages and in 1943 and 1944 tbere were more stoppages than in any previous recorded year.

123. After tbe second world war botb numbers of stoppages and days lost tended to fall, reaching tbeir lowest point in 1950 and rising thereafter. In the decade 1945–1954, while the average number of days lost was only a little greater than in the thirties, tbe average number of stoppages was between two and three times as large. Tbe average number of days lost was almost twice as higb in tbe decade 1955–64 as in the ten years before tbough there was a fall towards the end of the period. The average number of stoppages in 1955–64 was about 40 per cent. above the already higb average number in 1945–54. In 1957 the number of stoppages (2,859) was the bighest ever recorded and tbe year also marked tbe post-war peak in days lost (8,412,000).

124. As these figures sbow, days lost througb strikes since the last war and particularly in the last decade bave averaged more than during the period 1933–1939 and the second world war, but much less tban during the first world war and tbe years following it up to 1932. The average number of strikes during 1945–1964, on the other hand, sbows a large increase compared with pre-war years and continues at a higb level.

125. In considering the figures in Appendix XV it must be remembered that over tbe period covered the employed population has greatly increased. The cbange does not, bowever, invalidate the generalisations in the last three paragraphs.

Large-scale strikes

126. Over the last 20 years, tbe years in whicb most days were lost bave all included high totals for particular industries. In 1957 a wide-spread engineering strike cost tbe loss of four million days and a national shipbuilding strike a further 2,150,000. In 1962 about 3,785,000 days were lost througb two national one-day strikes in engineering and shipbuilding and a one-day strike on the railways. In 1959 some three and a balf million days lost were due to a single strike in printing.

Unofficial strikes

127. All these major strikes were official—i.e. they were called by a trade union. But the great majority of strikes in this country in recent years have been

unofficial—i.e. not called or recognised by a trade union. No separate figures for unofficial strikes are published, but it is estimated that in the five years 1960–1964 nearly 95 per cent. of strikes were unofficial and that these accounted for nearly 60 per cent. of days lost. If the national one-day stoppages of 1962 are excluded the estimated proportion of days lost through unofficial strikes rises to over 75 per cent. Most unofficial strikes are short and practically all are local. To a large extent they are in breach of the procedure for settling disputes in the industry concerned. Though it sometimes happens that a strike after procedure has been exhausted is not recognised by the union, the vast majority of unofficial stoppages occur before procedure has been exhausted or even used. (Only on rare occasions do official strikes take place before procedure has been exhausted. In such cases the union supporting the strike may argue that there are special circumstances which make the procedure inapplicable.)

International comparisons

128. Appendix XVI, which is based on figures supplied by the International Labour Office, shows days lost per 1,000 persons employed in mining, manufacturing, construction and transport since 1955 in 19 countries. These show that over the ten years 1955–1964 West Germany, Sweden, the Netherlands, Norway, Switzerland and New Zealand have a better record than the United Kingdom ; the U.S.A., France, Italy, Japan, India, Australia, Belgium, Canada, Denmark, Ireland and Finland have worse records. The same result emerges from the records of the five years 1960–1964 except that Belgium has a better record than the U.K. over the shorter period. These figures indicate that, of all the major industrial countries of the free world, only West Germany loses fewer days proportionately through strikes than the U.K. But, as has been pointed out in paras. 122–124, the number of strikes in this country has risen greatly in post-war years. Appendix XVII, also based on information supplied by the I.L.O., shows that over the five years 1959–1963 the average number of strikes per 100,000 employees was higher in the U.K. than in any other of the same 19 countries* except Australia, France and Italy (all of which, particularly the first, show very high figures).

Strike-prone industries

129. Further light is shed on the strike problem in the U.K. by examining the industries where most strikes occur and their causes. Appendix XVIII analyses stoppages by industry groups over the years 1960–1964, including an indication of days lost per thousand employees in each industry group. These figures need to be used with caution as the employee figures include administrative, technical and clerical workers (who are not normally involved in strikes) in proportions varying between different industries. Nevertheless it is noteworthy that, whereas many industry groups consistently lose very few days through strikes, the five or six industry groups losing most days per thousand employees have included motor vehicles, shipbuilding and port transport every year from 1960, and coalmining every year except 1962. No other industry group figures among the annual leaders more than once in the five years except iron and steel, which figures twice. The four worst groups accounted for about 44 per cent. of the time lost in the last five years and for over half the number of strikes (largely due to the number of strikes in coalmining†, which has always been very high though in recent years it has shown a decline).

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* Except West Germany where no record is kept of the number of disputes.

† In considering the number of strikes in coalmining it has to be remembered that, in this industry, because there is a single employer, every stoppage is reported. In the private sector of industry, where there are numerous employers, there are undoubtedly many strikes which, though not too small to be included in the Ministry's figures, in practice escape inclusion.

130. There is no one reason for the poor record of these industries, but certain factors arising from both past history and present conditions may be mentioned. Perhaps the main common feature of the industries which lose most days is the prevalence of payment by results schemes. The continual re-negotiation of rates at the local level, e.g. due to a new car model or a new coal face, is a cause of disputes. Some parts of the motor industry which do not use payment by results seem to suffer less from strikes. Another factor is insecurity. There is an element of casual employment in shipbuilding and more especially ship-repairing; the motor industry has been prone to cyclical recessions, often causing large-scale redundancy; and in the docks, though the national dock labour scheme has replaced the pre-war casual system, most dock workers have no permanent relationship with any individual dock employer. A third factor is inter-union difficulties, affecting all the industries under discussion other than coalmining (with rare exceptions). This can both cause and prolong disputes and a particular problem is that inter-union rivalry makes it harder for unions to maintain discipline over their members.

131. Besides these general factors, the traditions and atmosphere of each industry cannot be ignored. (There are other industries with such features as payment by results and insecure employment—e.g. construction—whose record is better.)

132. In coalmining and the docks working conditions create a special way of life which breeds a strong sense of solidarity, reinforced by the tradition of militancy which long and bitter industrial conflicts in the past have caused. One consequence is a marked readiness to strike in support of fellow-workers in the industry whatever the circumstances. The motor industry, though not without its conflicts in the past, is a high-wage industry with few deep-rooted traditions. In many cases there is a willingness to exploit labour shortages and the dependence of large parts of the industry on small groups of key workers in order to drive up wages. Shipbuilding, by way of contrast, shows the marks of its lack of prosperity. The memory of past depressions still affects attitudes on both sides of the industry.

Regional differences

133. Comparisons between regions suggest that the strike habit is much more common in some regions than in others. In coalmining, Yorkshire has accounted for 46 per cent. of all days lost in the industry during 1960-1964, though the proportion of mining employees in that region averaged only 20 per cent. over these years; to a lesser extent strikes in coalmining are also concentrated in Wales and Scotland. In the Midlands an average 34 per cent. of employees in the motor industry accounted for 49 per cent. of the days lost in that industry in 1960-1964. In shipbuilding there were heavy losses in Scotland (where some 23 per cent. of employees in the industry accounted for 38 per cent. of the days lost in 1960-1964) and to a lesser extent in the North East and the North West. In the docks, strikes have been more of a problem in London and, to a lesser extent, Liverpool than elsewhere. In construction, though the total of days lost is not high, the North West has a large share—with an average 11 per cent. of the employees in the industry in 1960-1964, it accounted for 43 per cent of the days lost.

Immediate causes of disputes

134. Appendix XIX analyses stoppages by causes in the main industry groups, 1960-1964. The main causes in terms of days lost are wage disputes

(claims for wage increases and other wage disputes), disputes over the employment or discharge of workers and disputes over other working arrangements, including rules and discipline. The prominence of wage disputes is not surprising and provides a further indication that local negotiations over wages can be a fertile cause of disputes. Wage disputes over these five years accounted for about two-thirds of all days lost and nearly half of all stoppages. Other working arrangements, rules and discipline gave rise to nearly a third of all stoppages but less than 10 per cent. of days lost, whereas the employment and discharge of workers caused between 10 and 11 per cent. of both numbers of stoppages and days lost. It may be noted that all other causes—including demarcation disputes—were comparatively insignificant.

135. The great majority of " other wages disputes ", and two-fifths of the days lost through them, are in coalmining. Disputes over the employment or discharge of workers as measured by the number of stoppages are concentrated in metals and engineering and in construction, but most days are lost from this cause in motor vehicles. Most strikes over other working arrangements, rules and discipline occur in coalmining and most days are lost there ; next come transport (reflecting stoppages of this kind in the docks), motor vehicles and metals.

Effects of strikes

136. The economic effects of strikes should be seen in perspective. In 1964 time lost through strikes was equivalent to about one-tenth of a working day per person in the employed population. But it is difficult to say how far this gives an accurate indication of the loss of production through strikes. The figures include time lost by workers thrown out of work at establishments where stoppages occurred who were not themselves parties to the dispute. (The number of such workers may, in the case of some stoppages, greatly exceed the number of strikers.) The figures do not, however, include any loss of time, e.g. through shortages of materials, caused at other establishments. Information is available about some such repercussions in the motor industry, where it is estimated that from 1960 to 1964 over 260,000 days were lost per year in other establishments (an average raised by the figure of 650,000 days in 1961) compared with some 480,000 days per year lost directly through stoppages. Losses in other establishments are, however, unusually high in this industry where establishments are closely dependent on one another for supplies. Strikes in service industries such as transport and the power industries, besides causing loss of production in other industries directly dependent on them, cause a great deal of general inconvenience resulting in a loss of production, which is impossible to measure but may be considerable. Time lost during a strike may be made up afterwards by overtime, but not all firms have enough spare capacity to make up losses.

137. It is often pointed out that time lost through strikes is a tiny fraction of that lost through sickness and injury—the figures for national insurance benefit show that in 1964 spells of certified incapacity for these reasons accounted for 306,490,000 days (excluding Sundays), i.e. well over one hundred times the number of days lost through strikes. But as sickness and injury are spread throughout the year and throughout the whole labour force, their effects can often be absorbed by those remaining at work. Moreover, these effects are to a great extent predictable and can be allowed for in the scale of manning. Strikes, on the other hand, can hardly be allowed for in this way and can, therefore, disrupt production in a way in which sickness does not.

138. The psychological consequences of strikes must also be considered. A firm, an industry or a locality which gets a reputation for being strike-prone

may suffer a permanent loss of orders. The U.K.'s reputation abroad has probably suffered more than the time lost through strikes in comparison with other countries would warrant. This may be due to the multiplicity of strikes, the fact that most are unofficial and the prominence which the press often gives to strikes. Strikes in sectors such as public transport may cause great public inconvenience and for that reason alone get a great deal of publicity. It is also an unfortunate fact that many strikes are in industries which are largely occupied in supplying foreign markets, and such strikes are particularly damaging to our international business reputation.

Seriously damaging strikes

139. Large-scale strikes in vital sectors of employment—e.g. the railways, the docks or the electricity supply industry—can of course threaten serious damage to the economy. The Government's powers under emergency legislation to secure the essentials of life to the community during a strike and the special restrictions on the right of employees in essential services to take industrial action are set out in the second memorandum.

140. It is sometimes argued that the Government should make strikes seriously damaging to the economy (which may be either official or unofficial) illegal. This suggestion is considered in the second memorandum.

141. Where strikes of this kind are threatened, experience suggests that the best course of action often depends mainly on the particular circumstances. For this reason it is probably advisable to retain the maximum flexibility for the Government to choose whether to conciliate, to offer facilities for independent arbitration, to appoint a body to inquire into the dispute, or to do nothing.

Other forms of industrial action

142. This examination of strikes has not taken account of time and production lost through other forms of industrial action—e.g. go-slows, working to rule and overtime bans, of which the last is perhaps the most common. Their advantage from the workers' point of view is that they do not involve the total loss of income usually suffered by strikers. (Workers on strike cannot draw unemployment benefit, and if the strike is unofficial they do not get strike pay from their union.) Overtime bans are most effective where normal running is dependent on a high level of overtime. Working to rule can be very effective where there are detailed safety or other regulations, e.g. in transport. Unfortunately there is no statistical information available about loss of production due to such forms of action.

General assessment

143. Although the U.K. has not got a worse record of days lost through strikes than most of her principal competitors in foreign markets, and the direct loss of production caused by strikes in the U.K. may not be large, these strikes undoubtedly affect the reputation of our industries abroad and in that way detract from our export performance. The main problem is one of unofficial strikes and strikes in breach of procedure. The principal cause of strikes is wage disputes. They are concentrated in certain industries and certain regions suffer more than others. This evidence suggests that once the strike habit has become established it is a long and difficult task to get rid of it.

144. The strike problem raises questions for employers and employers' associations and trade unions (particularly in the industries where strikes are most frequent) and the Government.

Employers and employers' associations

145. The immediate causes of strikes have heen analysed in paras. 134–135. The hasic reason may he a lack of the trust and confidence hetween management and workers which are essential for good industrial relations. It is prohahle that many disputes could be avoided hy better and more efficient personnel management (see paras. 75–86). An atmosphere conducive to strikes arises from such causes as had communications, failure to take action over workers' grievances and poor selection and training of supervisors. Sometimes, too, the scope of personnel management is too narrowly restricted.

146. The Ministry of Labour has for many years promoted the extension of good personnel practices through its industrial relations service and hy other methods and is considering how personnel management in general might he improved. In the long term more and better management education and training should improve the situation, provided proper attention is paid to personnel matters.

147. It is for consideration whether employers' associations might not take more of an initiative in promoting improvements in the handling of lahour prohlems hy managements. It may he that more positive help and guidance to memhers on these matters would be heneficial. More widespread realisation of the importance of efficient personnel management would itself he a step forward.

Trade unions

148. Unofficial strikes are a serious challenge to the authority of the trade unions and damage their standing in the eyes of the general public. The harm they do to production and their effect in raising the earnings of particular groups of workers faster than productivity increases also run counter to the trade unions' general aim of ohtaining improvements in their memhers' real wages, and also damage the national economy.

149. Trade unions are workpeople's organisations and cannot be expected to disregard their members' wishes, hut there is a widespread helief that they could and should he much more active in preventing and discouraging unofficial strikes. It may be that two important contrihutions would he an improvement in the efficiency of unions' internal organisation and a greater willingness to take disciplinary action against those who lead unofficial action.

150. Improved efficiency might necessitate a fuller integration of the shop steward into the union's structure, with proper definition of his functions and the extent of his authority. More training for shop stewards might help and an increase might also be necessary in the numher of full-time union officials in order to improve contact and communications hetween the rank and file and the leadership. To find money to pay more full-time officials, higher dues might he needed.

151. Disciplinary action—e.g. expulsion from memhership, or removal of shop stewards from office—is occasionally taken hy unions against leaders of unofficial action, hut usually only as a last resort. British unions differ in this respect from those in some other countries (e.g. the U.S.A., Sweden and Germany). Action against unofficial leaders would not be likely to be effective unless the union leadership was in close touch with the rank and file members and acted with the support of the majority. Granted this condition, a greater willingness to take disciplinary action might help to prevent the situation arising where unofficial action is resorted to irresponsihly and without use of other

means of resolving disputes. One difficulty is that where unions are in competition for members, a union taking disciplinary action in isolation may lose members to its rivals. The trend towards fewer and larger unions will help to mitigate this, but only in the long term.

Strike-prone industries

152. There would seem to be a need for both sides of the industries where strikes are particularly common to examine whether special steps are needed to improve their record. Procedure agreements might be examined to see whether they work quickly and effectively enough and whether they are well adapted to modern conditions of full employment and increased bargaining at the local level. There may be particular industrial relations difficulties in the industries which could be diminished by joint action. It may be, too, that after full discussion a joint resolve to make a " fresh start " and do everything possible to reduce the number of disputes would have an effect. Joint talks between the two sides of the motor industry were held in 1961 under the chairmanship of the then Minister of Labour and further talks are being arranged this year ; among the results of the earlier discussions was the setting up within the industry of machinery for joint fact-finding inquiries into situations where strained relations had developed between management and workers.

Government

153. *Ministry of Labour.* The statutory powers and responsibilities of the Ministry in the field of conciliation and arbitration are dealt with in the third and fourth memoranda. As pointed out in the third memorandum, difficulties are created for the Ministry's conciliation machinery by the high proportion of strikes which are unofficial and in which it is therefore difficult for the Ministry to intervene. It has been suggested that there might be value in fact-finding teams, consisting of one representative employer and one representative trade unionist under a Ministry chairman, to investigate at short notice and report urgently on the facts of selected stoppages—whether official or unofficial—in order to bring the force of informed public opinion to bear on those involved. Such an arrangement on a permanent basis would need legislation. The danger in the procedure suggested is that it may give status to unofficial leaders and undermine the authority of the trade unions. The suggestion did not prove acceptable to the B.E.C. and T.U.C., though they did agree in 1964 to set up joint machinery of their own without Ministry representation for the study of selected disputes after they had been settled. The reports were not to be made public.

154. *The Law.* Possible changes in the law affecting strikes are considered in the second memorandum. There is little doubt that most of the changes in the law commonly suggested to solve the strike problem are unrealistic and unacceptable. The most promising may be to attempt to induce the trade unions to take more action than at present against unofficial strikes by making procedure agreements for the settlement of disputes legally enforceable. The advantages and disadvantages of this are considered in the second memorandum.

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Note :—All information relates to the United Kingdom unless otherwise stated in the Appendices.

APPENDIX I

NUMBER AND INDUSTRIAL DISTRIBUTION OF EMPLOYERS' ASSOCIATIONS IN SEPTEMBER 1965

Industry group	Some important associations or federations in each group (figures in brackets indicate the number of subordinate organisations included in the total number of associations or federations in the next column)	Total number of associations or federations (including local associations)
Agriculture, forestry and fishing	National Farmers' Union National Farmers' Union of Scotland British Trawlers' Federation Ltd.	13
Mining and quarrying	Federated Quarry Owners of Great Britain (17) Sand and Gravel Association of Great Britain	37
Food, drink and tobacco	Incorporated National Association of British and Irish Millers Ltd. (11) National Association of Master Bakers, Confectioners and Caterers (2) Food Manufacturers Industrial Group Cocoa, Chocolate and Confectionery Manufacturers Industrial Group	55
Chemical and allied industries	Association of Chemical and Allied Employers	17
Metal manufacture	Central Council of Iron and Steel Employers' Associations Iron and Steel Trades Employers' Association—Blastfurnace and Coke Oven Section (4) and Heavy Steel Section	23
Engineering and electrical goods (including vehicles and other metal goods)	Engineering Employers' Federation (39)	105
Shipbuilding and marine engineering	Shipbuilding Employers' Federation (18)	39
Textiles	National Employers' Association of Rayon Yarn Producers United Kingdom Textile Manufacturers' Association (Cotton, Man-made and Allied Fibres) (20) British Spinners' and Doublers' Association (8) Wool (and Allied) Textile Employers' Council (29) Association of Jute Spinners and Manufacturers Hosiery and Knitwear Employers' Association (5) Textile Finishing Trades' Association (7) Federation of British Carpet Manufacturers (3) Textile Narrow Fabrics Council (6)	143

APPENDIX I (*cont'd.*)

Industry group	Some important associations or federations in each group (figures in brackets indicate the number of subordinate organisations included in the total number of associations or federations in the next column)	Total number of associations or federations (including local associations)
Leather, leather goods, etc.	Leather Producers' Association for England, Scotland and Wales (9)	20
Clothing and footwear	Clothing Manufacturers' Federation of Great Britain (10) National Association of Glove Manufacturers (6) British Footwear Manufacturers Federation (17)	76
Bricks, pottery, glass, cement, etc.	National Federation of Clay Industries (18) British Pottery Manufacturers' Federation	52
Timber, furniture, etc.	British Furniture Trade Confederation (15) Timber Container Federation (8)	66
Paper, printing and publishing	British Federation of Master Printers (14) Newspaper Proprietors Association Ltd. Newspaper Society	37
Other manufacturing industries	Rubber Manufacturing Employers' Association	14
Construction	National Federation of Building Trades Employers (303) Federation of Civil Engineering Contractors National Federated Electrical Association National Federation of Plumbers and Domestic Heating Engineers (58)	432
Transport and communication	Conference of Omnibus Companies Federation of Municipal Passenger Transport Employers Road Haulage Association Ltd. Shipping Federation Ltd. National Association of Port Employers (61)	110
Distribution	Co-operative Union Ltd. (10) National Federation of Wholesale Grocers and Provision Merchants (1) National Association of Multiple Grocers (2)	174
Miscellaneous services	Cinematograph Exhibitors' Association of Great Britain and Ireland Caterers' Association of Great Britain	51

Industry group	Some important associations or federations in each group (figures in brackets indicate the number of subordinate organisations included in the total number of associations or federations in the next column)	Total number of associations or federations (including local associations)
Local government	Association of Municipal Corporations County Councils Association	11
TOTAL		1,411*

* The total does not correspond exactly with the sum of the totals in each industry group, since some associations are included in more than one industry group and some small industry groups are not shown. Moreover, the total includes three central organisations—the Confederation of British Industry, the Overseas Employers' Federation and the National Association of Workshops for the Blind.

Source: Ministry of Labour's Directory of Employers' Associations, Trade Unions, Joint Organisations, etc.

APPENDIX II

DISTRIBUTION OF TRADE UNION MEMBERS AMONG UNIONS OF DIFFERENT SIZES (END 1963)

Number of members	Number of unions	Total membership	Percentage of	
			Total number of all unions	Total membership of all unions
Under 500	261	42,000	43·8	0·4
500 and under 1,000	57	41,000	9·6	0·4
1,000 and under 2,500	94	152,000	15·8	1·5
2,500 and under 5,000	58	195,000	9·7	2·0
5,000 and under 10,000	30	201,000	5·0	2·0
10,000 and under 15,000	21	256,000	3·5	2·6
15,000 and under 25,000	22	421,000	3·7	4·3
25,000 and under 50,000	18	665,000	3·0	6·7
50,000 and under 100,000	17	1,180,000	2·9	11·9
100,000 and under 250,000	10	1,645,000	1·7	16·6
250,000 and more	8	5,119,000	1·3	51·6
Totals	596	9,917,000	100·0	100·0

Source : Ministry of Labour Gazette, November 1964

APPENDIX III

TRADE UNIONS WITH OVER 100,000 MEMBERS

(END 1963)

	Membership
Transport and General Workers' Union	1,413,000
Amalgamated Engineering Union	1,059,000
National Union of General and Municipal Workers	782,000
National Union of Mineworkers	629,000
Union of Shop, Distributive and Allied Workers	355,000
National and Local Government Officers' Association	326,000
National Union of Railwaymen	283,000
Electrical Trades Union	272,000
National Union of Teachers	242,000
National Union of Public Employees	237,000
Amalgamated Society of Woodworkers	192,000
National Union of Printing, Bookbinding and Paper Workers	178,000
Union of Post Office Workers	171,000
Civil Service Clerical Association	143,000
National Union of Agricultural Workers	131,000
British Iron, Steel and Kindred Trades Association (Iron and Steel Trades Confederation)	121,000
Amalgamated Society of Boilermakers, Shipwrights, Blacksmiths and Structural Workers	120,000
National Union of Tailors and Garment Workers	111,000

Sources : Report of the Chief Registrar of Friendly Societies for 1963 and Ministry of Labour

APPENDIX IV

NUMBER OF EMPLOYEES AND ESTIMATED NUMBER OF TRADE UNION MEMBERS IN DIFFERENT INDUSTRY GROUPS

Thousands

Industry Group	Males		Females		Totals	
	Number of employees	Estimated trade union membership	Number of employees	Estimated trade union membership	Number of employees	Estimated trade union membership
Agriculture, forestry, fishing	462	150	89	15	551	165
Coalmining	578	650	18	35	596	685
Other mining and quarrying	65	35	5	—	70	35
Food, drink and tobacco	484	130	358	60	842	190
Chemicals and allied industries	373	80	142	25	515	105
Metal manufacture, engineering and electrical goods, shipbuilding and marine engineering, vehicles and metal goods not elsewhere specified	3,522	2,130	1,015	280	4,537	2,410
Cotton, flax and man-made fibres—preparation and weaving	132	75	144	85	276	160

APPENDIX IV—(*Cont'd.*)

Number of Employees and Estimated Number of Trade Union Members in Different Industry Groups

Thousands

Industry Group	Males		Females		Totals	
	Number of employees	Estimated trade union membership	Number of employees	Estimated trade union membership	Number of employees	Estimated trade union membership
All other textiles	262	70	303	70	564	145
Leather, leather goods and fur	37	10	26	5	64	15
Clothing, other than footwear	94	25	359	95	453	120
Footwear	54	45	62	40	116	80
Bricks, pottery, glass, cement, etc.	279	135	80	15	359	150
Timber, furniture, etc.	237	90	59	10	296	100
Paper, printing and publishing	414	290	218	85	632	375
Other manufacturing industries	199	70	128	25	326	95
Construction	1,626	550	82	10	1,708	555
Gas, electricity and water	362	185	51	15	413	200
Railways	364	395	32	25	396	420
Other transport and communications	1,096	695	224	70	1,320	765
Distributive trades	1,439	435	1,586	175	3,026	615
Insurance, banking and finance	352	135	285	65	637	200
Educational services	345	200	749	230	1,094	430
All other professional and scientific services	453	125	816	155	1,268	280
Cinemas, theatres, radio, sport, betting, etc.	138	75	113	25	251	100
Catering and hotels	222	20	411	20	633	45
Motor repairs, etc.	344	120	78	10	423	130
Private domestic service	21	—	215	—	237	—
All other miscellaneous services	237	30	449	40	686	70
National government service	367	325	182	145	550	465
Local government service	581	570	194	245	776	815
Ex-service personnel not classified by industry	2	—	—	—	2	—
TOTALS	15,141	7,845	8,475	2,075	23,616	9,920

Notes :—
1. The figures for trade union membership can only be approximate because of the many unions which cover more than one industry and whose membership cannot be accurately apportioned. An attempt has been made in this table to distribute the membership of the general unions among the industries they cover, but there remain other unions with members in industries other than those in which most of their members are employed and in some cases the numbers involved are not known, so that no distribution can be made.
2. Numbers of employees (employed and unemployed) in each industry group are given as at June 1964; numbers of trade union members are given as at end 1963.
3. In a number of cases trade union membership is shown as being greater than the number of employees in the industry. This may be due to workers retaining union membership though retired or employed in industrial activities classified outside the industry.
4. Each figure of employees is rounded to the nearest 1,000 and some rounded totals may differ from the sum of the rounded components.

Source : Ministry of Labour

APPENDIX V

NUMBER OF EMPLOYEES IN EMPLOYMENT IN DIFFERENT INDUSTRY GROUPS IN 1959 AND 1964
GREAT BRITAIN

Industry group	Mid-1959		Mid-1964	
	Number of employees in employment	Proportion of whole	Number of employees in employment	Proportion of whole
	'000's	%	'000's	%
Agriculture, forestry, fishing	641·1	3·0	526·5	2·3
Mining and quarrying ..	830·3	3·9	655·2	2·9
All manufacturing industries	8,303·7	38·5	8,704·2	38·1
Construction*	1,378·8	6·4	1,614·1	7·1
Gas, electricity and water	374·3	1·7	402·4	1·8
Transport and communications ..	1,683·2	7·8	1,665·1	7·3
Public administration* ..	1,240·6	5·8	1,270·8	5·5
The rest: distribution, insurance, banking and finance; professional and scientific services; and miscellaneous services	7,093·6	32·9	7,998·1	35·0
TOTALS ..	21,545·6	100·0	22,836·4	100·0

* The 1964 figures for construction and public administration reflect a re-classification, which took place in that year, of an estimated 35,000 to 40,000 employees from public administration to construction.

Source : Ministry of Labour

APPENDIX VI

TOTAL TRADE UNION MEMBERSHIP 1945–1963

Year	*Total membership*	*Percentage change from previous year*
1945	7,875,000	— 2·6
1946	8,803,000	+ 11·8
1947	9,145,000	+ 3·9
1948	9,362,000	+ 2·4
1949	9,318,000	— 0·5
1950	9,289,000	— 0·3
1951	9,535,000	+ 2·6
1952	9,588,000	+ 0·6
1953	9,527,000	— 0·6
1954	9,561,000	+ 0·4
1955	9,731,000	+ 1·8
1956	9,768,000	+ 0·4
1957	9,819,000	+ 0·5
1958	9,628,000	— 1·9
1959	9,612,000	— 0·2
1960	9,824,000	+ 2·2
1961	9,884,000	+ 0·6
1962	9,873,000	— 0·1
1963	9,917,000	+ 0·4

Source : Ministry of Labour

APPENDIX VII

Finances of Registered Trade Unions of Employees
Great Britain

	1953	1961	1962	1963
Number of unions on register	410	393	388	372
Number of members ..	8,322,706	8,545,254	8,531,935	8,524,008
Income :—	£	£	£	£
From members	17,917,000	27,004,000	29,226,000	30,424,000
From other sources ..	2,437,000	3,906,000	4,357,000	4,329,000
Expenditure :—				
Working expenses ..	10,338,000	15,870,000	16,981,000	17,988,000
Unemployment, etc. benefit	172,000	178,000	309,000	464,000
Dispute benefit	258,000	539,000	697,000	462,000
Sick and accident benefit	1,231,000	1,684,000	1,915,000	2,112,000
Death benefit	676,000	924,000	950,000	1,011,000
Superannuation benefit ..	2,166,000	2,774,000	2,813,000	2,907,000
Other benefits	973,000	1,428,000	1,505,000	1,479,000
From political fund ..	389,000	605,000	606,000	1,063,000
Other outgoings ..	1,111,000	2,078,000	2,109,000	1,881,000
Funds at end of year ..	70,709,000	95,134,000	100,839,000	106,179,000

Note :—"Number of members", "Income : from members" and "Expenditure : other outgoings" are adjusted to eliminate duplication in respect of registered unions that are affiliated to a registered federation, or are branches of a registered union.

Source: Report of the Chief Registrar of Friendly Societies for 1963

APPENDIX VIII

AVERAGE ANNUAL CONTRIBUTION PER TRADE UNION MEMBER ANALYSED BY INDUSTRY

GREAT BRITAIN

(1963)

Industry group	Average annual contribution per member for all purposes		
	£	s.	d.
General labour organisations	2	8	11
Agriculture, forestry, fishing	2	0	9
Coalmining	3	18	4
All other mining and quarrying	1	3	2
Food, drink and tobacco	3	9	3
Chemicals and allied industries	1	4	3
Metal, engineering, shipbuilding, vehicles, etc.	4	3	9
Cotton, flax, man-made fibres	1	12	8
All other textile industries	2	10	2
Leather, leather goods, fur	1	15	6
Clothing other than footwear	2	2	4
Footwear	2	15	9
Bricks, pottery, glass, cement, etc.	1	10	1
Timber, furniture, etc.	3	7	7
Paper, printing, publishing	7	10	10
Other manufacturing industries	2	3	3
Construction	4	0	8
Gas, electricity, water	4	3	7
Railways	3	18	2
Other transport and communication	4	0	2
Distributive trades	4	0	2
Insurance, banking and finance	1	15	3
Educational services	1	8	4
All other professional and scientific services	2	13	4
Cinemas, theatres, radio, sport	4	0	7
All other miscellaneous services	2	10	2
National government services	2	8	10
Local government services	2	7	10
All unions of employees	3	11	4

Note : The amounts given are based on the total membership. In some unions not all members contribute for every benefit, e.g. provident benefits.

Source : Report of the Chief Registrar of Friendly Societies for 1963

APPENDIX IX

NEGOTIATING AND STATUTORY WAGE FIXING BODIES COVERING 100,000 WORKERS OR MORE

Industry	Main bodies (and trade unions represented)
Agriculture	*Agricultural Wages Board* (*England and Wales*)
	National Union of Agricultural Workers
	Transport and General Workers' Union
Coalmining	*Joint National Negotiating Committee* (*Underground and surface day-wage men*)
	National Union of Mineworkers
Food manufacture	*Joint Industrial Council for the Food Manufacturers Industrial Group*
	National Union of General and Municipal Workers
	Transport and General Workers' Union
	Union of Shop, Distributive and Allied Workers
Engineering	*Direct negotiations* (*Manual workers*)
	Confederation of Shipbuilding and Engineering Unions (For list of affiliates see Annex A to this Appendix)
	Direct negotiations (*Non-manual workers*)
	Clerical and Administrative Workers' Union
	National Association of Clerical and Supervisory Staffs (T. and G.W.U.)
	Draughtsmen's and Allied Technicians' Association
	Association of Scientific Workers
Shipbuilding and ship-repairing	*Direct negotiations*
	Confederation of Shipbuilding and Engineering Unions
Cotton spinning and weaving	*Direct negotiations*
	National Association of Card, Blowing and Ring Room Operatives
	Amalgamated Association of Operative Cotton Spinners and Twiners
	Northern Counties Textile Trades Federation, to which are affiliated:
	General Union of Associations of Loom Overlookers
	General Union of Lancashire and Yorkshire Warp Dressers' Association
	Amalgamated Association of Beamers, Twisters and Drawers (Hand and Machine)
	Amalgamated Textile Warehousemen
	Amalgamated Weavers' Association

APPENDIX IX (*cont'd.*)

Industry	Main bodies (and trade unions represented)
Woollen and worsted	*Direct negotiations* (*England and Wales*) National Association of Unions in the Textile Trade, to which are affiliated: Managers' and Overlookers' Society Bradford and District Power Loom Overlookers' Society Halifax and District Power Loom Overlookers' Society Huddersfield and Dewsbury Power Loom Overlookers' Society Keighley and District Power Loom Overlookers' Society Leeds and District Power Loom Overlookers' Society National Woolsorters' Society Textile Day Men's and Cloth Pattern Makers' Association Wool Yarn and Warehouse Workers' Union Huddersfield and District Healders' and Twisters' Trade and Friendly Society Leeds and District Warpdressers', Twisters' and Kindred Trades Association Saddleworth and District Weavers' and Woollen Textile Workers' Association Yorkshire Society of Textile Craftsmen
Clothing	*Ready Made and Wholesale Bespoke Tailoring Wages Council* (*Great Britain*) National Union of Tailors and Garment Workers
General Printing	*Direct negotiations* Printing and Kindred Trades Federation, to which are affiliated: National Graphical Association National Union of Printing, Bookbinding and Paper Workers Scottish Typographical Association National Society of Electrotypers and Stereotypers Amalgamated Society of Lithographic Printersand Auxiliaries National Society of Operative Printers and Assistants National Union of Press Telegraphists Society of Lithographic Artists, Designers, Engravers and Process Workers

APPENDIX IX (*cont'd.*)

Industry	Main bodies (and trade unions represented)
Building and contracting	*National Joint Council for the Building Industry*
	National Federation of Building Trades Operatives (composite section):
	Amalgamated Society of Woodworkers
	Amalgamated Union of Building Trade Workers
	National Union of General and Municipal Workers
	Transport and General Workers' Union
	Plumbing Trades Union
	Amalgamated Society of Woodcutting Machinists
	Amalgamated Slaters, Tilers and Roofing Operatives Society
	National Association of Operative Plasterers
	Amalgamated Society of Painters and Decorators
	Scottish Plasterers' Union
	Scottish Slaters', Tilers', Roofers' and Cement Workers' Society
Civil engineering	*Civil Engineering Construction Conciliation Boord*
	National Union of General and Municipal Workers
	Transport and General Workers' Union
	T. and G.W.U. (Power Workers)
	Amalgamated Union of Building Trade Workers
	Amalgamated Society of Woodworkers
	National Federation of Building Trade Operatives (for list of affiliates see Annex B to this Appendix)
Electricity supply	*National Joint Council for the Electricity Supply Industry* (*Manual workers*)
	Amalgamated Engineering Union
	Electrical Trades Union
	National Union of General and Municipal Workers
	Transport and General Workers' Union
	T. and G.W.U. (Power Workers)
British Rail	*Railwoy Staff National Council* (*conciliation and miscellaneous grades*)
	Associated Society of Locomotive Engineers and Firemen
	National Union of Railwaymen
	Transport Salaried Staffs' Association

APPENDIX IX (*cont'd.*)

Industry	Main bodies (and trade unions represented)
Road Passenger Transport	*National Council for the Omnibus Industry* (*Company owned omnibuses*)
	Amalgamated Engineering Union
	Electrical Trades Union
	National Union of Vehicle Builders
	National Union of Railwaymen
	National Union of General and Municipal Workers
	Transport and General Workers' Union
Road haulage	*Road Haulage Wages Council* (*Great Britain*)
	Transport and General Workers' Union
	Scottish Commercial Motormen's Union
	United Road Transport Union
	National Union of General and Municipal Workers
General Post Office	*Direct negotiations* (*manipulative rank and file*)
	Union of Post Office Workers
Retail Distribution	*Retail Food Trades Wages Council* (*England and Wales*)
	Transport and General Workers' Union
	Union of Shop, Distributive and Allied Workers
	Clerical and Administrative Workers' Union
	United Road Transport Union
	National Conciliation Board for the Co-operative Service
	Union of Shop, Distributive and Allied Workers
	Transport and General Workers' Union
	National Union of General and Municipal Workers
	Clerical and Administrative Workers' Union
	United Road Transport Union
	Scottish Commercial Motormen's Union
	National Union of Co-operative Officials
	National Union of Tailors and Garment Workers
	Tobacco Workers' Union
	National Union of Furniture Trade Operatives
	National Union of Dyers, Bleachers and Textile Workers

APPENDIX IX (*cont'd.*)

Industry	Main bodies (and trade unions represented)
Retail Distribution (*contd.*)	*National Conciliation Board for the Co-operative Service* (*contd.*)
	Draughtsmen's and Allied Technicians' Association
	National Union of Boot and Shoe Operatives
	National Society of Pottery Workers
	Bakers' Union
	Retail Drapery, Outfitting and Footwear Trades Wages Council (*Great Britain*)
	Union of Shop, Distributive and Allied Workers
	Transport and General Workers' Union
	Retail Furnishing and Allied Trades Wages Council (*Great Britain*)
	Union of Shop, Distributive and Allied Workers
	Transport and General Workers' Union
National Health Service	*Ancillary Staffs Council for the Health Services* (*Manual Workers*)
	Confederation of Health Service Employees
	National Union of General and Municipal Workers
	National Union of Public Employees
	Transport and General Workers' Union
	National Federation of Building Trades Operatives
	Nurses and Midwives Whitley Council
	Association of Hospital Matrons
	Association of Supervisors of Midwives
	Confederation of Health Service Employees
	Association of Hospital and Welfare Administrators
	National and Local Government Officers' Association
	National Union of General and Municipal Workers
	National Union of Public Employees
	Royal College of Midwives
	Royal College of Nursing
	Scottish Matrons' Association
	Scottish Health Visitors' Association
	Women Public Health Officers' Association

APPENDIX IX (*cont'd.*)

Industry	Main bodies (and trade unions represented)
Education	*Burnham Main Committee on Scales of Salaries for Teachers in Primary and Secondary Schools and Special Schools maintained by Local Education Authorities*
	National Union of Teachers
	Association of Teachers in Technical Institutions
	Incorporated Association of Assistant Masters
	Incorporated Association of Assistant Mistresses
	Incorporated Association of Headmasters
	Incorporated Association of Headmistresses
	National Association of Schoolmasters
	National Association of Head Teachers
Catering	*Licensed Residential Establishment and Licensed Restaurant Wages Council (Great Britain)*
	Union of Shop, Distributive and Allied Workers
	National Union of General and Municipal Workers
	Bakers' Union
	Licensed Non-Residential Establishment Wages Council (Great Britain)
	National Union of General and Municipal Workers
	Union of Shop, Distributive and Allied Workers
	National Union of Club Stewards
	Transport and General Workers' Union
	London and District Managers Licensed Victuallers Association
	Golf Club Stewards Association
	United Federation of Hotel Managers and Club Stewards of Great Britain
	Amalgamated Licensed Retailers Society—Managers' Section
	Licensed Victuallers Defence League of England and Wales
	Unlicensed Place of Refreshment Wages Council (Great Britain)
	Union of Shop, Distributive and Allied Workers
	National Union of General and Municipal Workers
	National Union of Public Employees
	National Association of Theatrical and Kine Employees
	Bakers' Union

APPENDIX IX (*cont'd.*)

Industry	Main bodies (and trade unions represented)
Motor garages	*National Joint Council for the Motor Vehicle Retail and Repairing Trade*
	Transport and General Workers' Union
	Amalgamated Engineering Union
	Electrical Trades Union
	National Union of Vehicle Builders
	National Union of General and Municipal Workers
National Government	*Civil Service National Whitley Council*
	Civil Service Clerical Association
	Inland Revenue Staff Federation
	Ministry of Labour Staff Association
	Society of Civil Servants
	Customs and Excise Federation
	Association of H.M. Inspectors of Taxes
	Association of Officers of Ministry of Labour
	Association of First Division Civil Servants
	Institution of Professional Civil Servants
	Federation of Civil Service Professional and Technical Staffs
	Civil Service Union
	Union of Post Office Workers
	Post Office Engineering Union
	Association of Post Office Controlling Officers
	A Post Office Group comprising:
	Society of Telecommunication Engineers
	National Federation of Sub-Postmasters
	Association of Head Postmasters
	Postmasters' Association
	Telephone Contract Officers' Association
	Telecommunications Traffic Association

APPENDIX IX (*cont'd.*)

Industry	Main bodies (and trade unions represented)
Local government service	*National Joint Council for Local Authorities' Services (England and Wales) (Manual Workers)*
	Transport and General Workers' Union
	National Union of General and Municipal Workers
	National Union of Public Employees
	National Joint Council for Local Authorities' Administrative, Professional, Technical and Clerical Services
	National and Local Government Officers' Association
	National Union of General and Municipal Workers
	National Union of Public Employees
	Transport and General Workers' Union
	Confederation of Health Service Employees

Source: Ministry of Labour

ANNEX A to APPENDIX IX

MEMBERSHIP OF CONFEDERATION OF SHIPBUILDING AND ENGINEERING UNIONS

Amalgamated Engineering Union
Amalgamated Moulders and Kindred Industries' Trade Union
Amalgamated Society of Boilermakers, Shipwrights, Blacksmiths and Structural Workers
Amalgamated Society of Painters and Decorators
Amalgamated Society of Woodcutting Machinists
Amalgamated Society of Woodworkers
Amalgamated Union of Foundry Workers of Great Britain and Ireland
Amalgamated Union of Sailmakers
Associated Metalworkers' Society
Association of Scientific Workers
Association of Supervisory Staffs, Executives and Technicians
Birmingham and Midland Sheet Metal Workers' Society
Clerical and Administrative Workers' Union
Constructional Engineering Union
Draughtsmen's and Allied Technicians' Association
Electrical Trades Union
General Iron Fitters' Association
Heating and Domestic Engineers' Union, incorporating Ventilating Engineers and General Metal Workers
National Society of Metal Mechanics
National Union of Furniture Trade Operatives
National Union of General and Municipal Workers
National Union of Scalemakers
National Union of Sheet Metal Workers and Coppersmiths
National Union of Stove, Grate and General Metal Workers
National Union of Vehicle Builders
Plumbing Trades Union
Screw, Nut, Bolt and Rivet Trade Society
Transport and General Workers' Union
United French Polishers' Society
United Patternmakers' Association
National Association of Clerical and Supervisory Staffs (Section of T. & G.W.U.)
National Union of Enginemen, Firemen, Mechanics and Electrical Workers (Section of T. & G.W.U.)

Source : Directory of Employers' Associations, Trade Unions, Joint Organisations, etc.

ANNEX B to APPENDIX IX

MEMBERSHIP OF NATIONAL FEDERATION OF BUILDING TRADE OPERATIVES

Amalgamated Slaters, Tilers and Roofing Operatives Society
Amalgamated Society of Painters and Decorators
Amalgamated Society of Woodcutting Machinists
Amalgamated Society of Woodworkers
Amalgamated Union of Asphalt Workers
Amalgamated Union of Building Trade Workers of Great Britain and Ireland
Association of Building Technicians
Constructional Engineering Union
Electrical Trades Union
National Association of Operative Plasterers
National Society of Street Masons, Paviors and Roadmakers
National Union of Furniture Trade Operatives
National Union of General and Municipal Workers
Plumbing Trades Union
Transport and General Workers' Union
United French Polishers' Society
Scottish Slaters', Tilers', Roofers' and Cement Workers' Society
Scottish Plasterers' Union
Heating and Domestic Engineers' Union, incorporating Ventilating Engineers and General Metal Workers

Source : Directory of Employers' Associations, Trade Unions, Joint Organisations, etc.

APPENDIX X

Weekly Wage Rates in Selected Industries

Men

Industry	1st August 1965	
	s.	d.
Agriculture (minimum Wages Board rate for England and Wales)	202	0
Coalmining (national standard rates)		
—underground	253	0
—surface	233	0
Brewing (inside workers : minimum rates)		
—London	237	0
—Burton-on-Trent	229	0
—Scotland	235	0
Engineering (minimum earnings levels)		
—fitters —London	226	5
—national	223	8
—labourers —London	190	10
—national	189	4
Shipbuilding (inclusive uniform plain time rate on new work)		
—skilled classes	211	4
Vehicle building (minimum rates)		
—craftsmen —London	242	9
—other areas in England and Wales	241	0
—labourers —London	207	10
—other areas	206	1
Railway workshops (standard rates)		
—craft grades —London	260	6
—other areas	254	6
—labourers —London	218	6
—other areas	212	6
Footwear manufacture (minimum rate for day work)	212	6
Rubber manufacture (minimum rate)	213	2
Building (standard rates)		
—craftsmen —London	269	11
—Grade A districts	264	10
—labourers —London	234	1
—Grade A districts	228	11
Railway service (standard rates)		
—engine drivers on maximum —London	334	0
—other areas	328	0
—porters —London	217	0
—other areas	211	0
London Transport (central buses)		
—drivers on maximum	303	6
—conductors on maximum	287	6
Dock labourers (minimum rate)	208	4
Postmen (standard rates)		
—inner London area (on maximum)	301	0
—national rate area (on maximum)	275	0

APPENDIX X (*cont'd.*)

Weekly Wage Rates in Selected Industries

Men

Industry	1st August 1965	
	s.	d.
Retail food—shop assistants (Wages Council rates for England and Wales)		
—London	199	0
—provincial A areas	191	6
—provincial B areas	178	6
Motor vehicle retail and repair trade (minimum rates)		
—skilled workers —London	231	0
—other areas	227	6
—unskilled workers employed outside workshops		
—London	190	9
—other areas	187	3
County Council roadmen (minimum rates for basic grade in England and Wales)		
—London	238	7
—zone A authorities	223	7
—zone B authorities	220	7

Source : Ministry of Labour

APPENDIX XI

Weekly Wage Rates in Selected Industries

Women

Industry	1st August 1965	
	s.	d.
Agriculture—minimum Wages Board rate for England (except Yorkshire and Cambridgeshire) and Wales	151	6
Engineering—minimum earnings level	162	6
Hosiery manufacture —minimum rate for experienced production workers in Midlands	122	2
Textile finishing—minimum rate	140	8
Footwear manufacture—minimum day rate	172	6
Rubber manufacture—minimum rate	158	2
Retail food—shop assistants (Wages Council rates for England and Wales)		
—London	148	6
—provincial A areas	142	0
—provincial B areas	131	6
Health Services —cleaners, domestic assistants, etc. (standard rates)		
—London	178	6
—other areas	166	6
Laundering (Wages Council rate)	133	11

Source : Ministry of Labour

APPENDIX XII

AVERAGE WEEKLY EARNINGS AND AVERAGE HOURS WORKED—MEN MANUAL WORKERS
(APRIL 1965)

	Average weekly earnings		Average hours worked
	s.	d.	
Food, drink and tobacco	355	1	48·0
Chemicals and allied industries	391	2	47·0
Metal manufacture	406	9	46·7
Engineering and electrical goods	382	2	46·6
Shipbuilding and marine engineering	386	5	47·8
Vehicles	448	11	45·1
Metal goods not elsewhere specified	382	2	47·1
Textiles	338	4	46·9
Leather, leather goods and fur	328	3	45·8
Clothing and footwear	323	10	43·0
Bricks, pottery, glass, cement, etc.	384	6	49·3
Timber, furniture, etc.	356	4	46·0
Paper, printing and publishing	435	1	46·4
Other manufacturing industries	379	6	47·0
All manufacturing industries	388	10	46·7
Mining and quarrying (except coal)	367	6	51·8
Construction	382	5	49·5
Gas, electricity and water*	353	2	48·7
Transport and communication (except railways, London Transport, British Road Services and sea transport)	374	11	50·7
Certain miscellaneous services	315	10	45·9
Public administration	287	4	45·1
All the above, including manufacturing industries	378	2	47·5

* As information for the electricity industry is not yet available for April 1965 the figures for October 1964 are given for this group. Electricity has not been included in the figures in the last line of the table for all industries covered by the Ministry's inquiry.

Source: Ministry of Labour

APPENDIX XIII

MOVEMENTS IN WAGE RATES, WAGE EARNINGS AND SALARY EARNINGS
AVERAGE 1955 = 100

Year	All manual workers		Average salary earnings
	Weekly wage rates	Average weekly earnings	
1950	73·1	68·1	
1951	79·3	75·0	
1952	85·8	80·9	
1953	89·8	85·9	
1954	93·7	91·5	
1955	100·0	100·0	100·0
1956	107·9	108·0	107·3
1957	113·4	113·0	114·8
1958	117·5	116·9	118·5
1959	120·6	122·2	126·3
1960	123·7	130·1	133·4
1961	128·8	138·0	139·9
1962	133·6	142·9	147·7
1963	138·4	148·9	155·8
1964	144·8	161·8	165·0

Source : Ministry of Labour

APPENDIX XIV

CHANGES IN GROSS DOMESTIC PRODUCT COMPARED WITH CHANGES IN GROSS DOMESTIC INCOMES
1950 = 100

Year	Gross domestic product at constant (1958) prices	Gross domestic product per head of labour force at constant (1958) prices	Gross domestic incomes
1950	100·0	100·0	100·0
1951	103·6	102·2	110·7
1952	103·7	102·4	121·1
1953	109·5	106·6	128·7
1954	112·4	109·0	137·0
1955	115·9	111·2	148·0
1956	118·4	112·5	158·6
1957	120·5	114·6	167·2
1958	120·1	115·3	174·3
1959	124·3	119·0	184·1
1960	130·6	123·0	199·8
1961	135·1	125·9	211·3
1962	136·0	126·2	221·4
1963	141·2	131·0	233·2
1964	149·1	136·6	251·8
Rate of increase per cent. per annum compound 1950–1964	2·9	2·3	6·8

Source : Central Statistical Office

APPENDIX XV

STOPPAGES OF WORK BEGINNING IN EACH OF THE YEARS 1914-1964

Year	Number of stoppages	Number of workers involved	Number of working days lost
		000's	000's
1914	972	447	9,360
1915	672	448	2,970
1916	532	276	2,370
1917	730	872	5,870
1918	1,165	1,116	5,890
1919	1,352	2,591	36,030
1920	1,607	1,932	28,860
1921	763	1,801	82,270
1922	576	552	19,650
1923	628	405	10,950
1924	710	613	8,360
1925	603	441	8,910
1926	323	2,734	161,300
1927	308	108	870
1928	302	124	1,390
1929	431	533	8,290
1930	422	307	4,450
1931	420	490	7,010
1932	389	379	6,430
1933	357	136	1,020
1934	471	134	1,060
1935	553	271	1,950
1936	818	316	2,010
1937	1,129	597	3,140
1938	875	274	1,330
1939	940	337	1,350
1940	922	299	940
1941	1,251	360	1,080
1942	1,303	456	1,530
1943	1,785	557	1,830
1944	2,194	821	3,700
1945	2,293	531	2,850
1946	2,205	526	2,180
1947	1,721	620	2,400
1948	1,759	424	1,940
1949	1,426	433	1,820
1950	1,339	302	1,380
1951	1,719	379	1,710
1952	1,714	415	1,800
1953	1,746	1,370	2,170
1954	1,989	448	2,480
1955	2,419	659	3,790
1956	2,648	507	2,050
1957	2,859	1,356	8,400
1958	2,629	523	3,470
1959	2,093	645	5,280
1960	2,832	814	3,050
1961	2,686	771	3,040
1962	2,449	4,420	5,780
1963	2,068	590	2,000
1964	2,524	872	2,030

Note :

The statistics compiled by the Minister of Labour relate to stoppages of work due to disputes connected with terms of employment or conditions of labour. Information about stoppages of work is obtained from the Ministry's Industrial Relations Officers and Employment Exchange Managers. In addition information is available from certain nationalised industries and statutory authorities, from the press and, in the case of larger stoppages, from the organisations concerned. Small stoppages involving fewer than ten workers and those lasting less than one day are excluded from the statistics except any in which the aggregate number of working days lost exceeded 100. The figures also exclude any loss of time, e.g. through shortage of materials, which may be caused at other establishments by the stoppages which are included in the statistics. The figures include, however, time lost by workers thrown out of work at establishments where stoppages occurred but not themselves parties to the disputes.

Source : Ministry of Labour.

APPENDIX XVI

DAYS LOST DUE TO STOPPAGES PER THOUSAND PERSONS EMPLOYED IN MINING, MANUFACTURING, CONSTRUCTION AND TRANSPORT IN VARIOUS COUNTRIES IN 1955—1964.

	Annual Figures										Average for :		
	1955	1956	1957	1958	1959	1960	1961	1962	1963	1964	5 years 1955—1959	5 years 1960—1964	10 years 1955—1964
Australia[1]	580	630	370	250	200	380	330	280	300	460	406	350	378
Belgium	640	600	2,320	150	440	210	60	160	140*	260*	830	166	498
Canada	930	560	630	1,220	310	310	510	590	340	570*	730	464	597
Denmark[2]	15	1,470	10	20	30	100	3,340	30	40	30	309	708	509
Finland	160	110[7]	390	60	610	130	50	30	1,410	80	266	340	303
France	460	190	510	160	280	160	330	220	770	280*	320	352	336
West Germany[3]	80	150	80	50	—	—	—	30	130	—	72	32	52
India	870	1,100	850	990	770	770	420	500	240	520*	916	490	703
Ireland	420	160	350	360	270	140	590	320	760	1,580*	312	678	495
Italy	350	330	480	470	1,020	540	870	2,270	1,150	1,270	530	1,220	875
Japan	380	460	520	520	520	350	440	350	180	190	480	302	391
Netherlands	70	110	5	20	10	260	10	—	20	20*	43	62	53
New Zealand	170	75	80	60	90	100	100	250	140	160	95	150	123
Norway	180	1,400	10	40	80	—	570	130	360	—	342	212	277
Sweden[4]	65	—	20	10	10	10	—	—	10	10*	21	6	14
Switzerland	—	—	—	—	—	—	—	—	50	—	—	10	5
Union of South Africa ..	5	10	5	—	10	—	40	—	‡	‡	6	‡	‡
United Kingdom[5]	280	150	620	260	420	240	220	440	140	170	346	242	294
United States[6]	1,100	1,300	630	1,030	2,770	750	650	730	630	850	1,366	722	1,044

Note :—Where no figure is given the number of days lost per 1,000 persons employed is nil or negligible.

* Preliminary figure.
‡ Not available.
[1] Including electricity and gas.
[2] Manufacturing only.
[3] Excluding West Berlin (and the Saar up to 1958).
[4] All industries included.
[5] Owing to changes in industrial classification, the figures from 1959 onwards are not strictly comparable with those for earlier years.
[6] Beginning 1960 : including Alaska and Hawaii. Figures cover also electricity, gas and sanitary services.
[7] Excluding days lost during general strike of 1–19.3.1956 (6,900,000 days lost and 423,000 employees involved).

Source : International Labour Office

APPENDIX XVII

NUMBER OF STOPPAGES PER 100,000 EMPLOYEES IN VARIOUS COUNTRIES, 1959–1963

Country	Number of stoppages per 100,000 employees					Yearly average over 5 year period 1959–1963
	1959	1960	1961	1962	1963	
Australia	28·9	36·6	26·0	36·6	37·5	33·2
Belgium	1·7	1·8	1·1	1·1	1·4	1·4
Canada	3·7	4·6	4·7	5·0	5·2	4·7
Denmark	1·1	3·9	1·6	1·2	0·91	1·8
Finland	2·4	2·1	2·4	2·2	3·1	2·4
France	16·3	15·8	20·4	19·1	23·5	19·1
West Germany ..		(Not	available)			
India	0·81	0·83	0·72	0·79	0·74	0·78
Ireland	5·5	4·7	9·2	5·8	6·7	6·4
Italy	9·5	12·3	17·4	18·3	21·1	15·7
Japan	2·0	2·4	3·1	2·8	2·3	2·5
Netherlands ..	1·3	3·2	1·1	0·62	2·7	1·8
New Zealand ..	8·6	6·9	8·0	10·6	6·5	8·1
Norway	1·3	0·83	1·3	0·54	0·54	0·89
Sweden	0·52	0·96	0·37	0·31	0·74	0·58
Switzerland ..	0·16	0·32	—	0·08	0·16	0·14
South Africa ..	0·81	0·72	1·4	0·97	0·97	0·98
United Kingdom ..	9·0	12·0	11·2	10·2	8·6	10·2
United States ..	5·7	5·0	5·0	5·3	4·9	5·2

Source : International Labour Office

APPENDIX XVIII

ANALYSIS OF STOPPAGES BY INDUSTRY GROUPS, 1960–1964

Industry group	1960		1961		1962		1963		1964	
	Number of stoppages beginning	Working days lost per thousand employees through all stoppages in progress†	Number of stoppages beginniog	Working days lost per thousand employees through all stoppages in progress†	Number of stoppages beginniog	Working days lost per tbousand employees through all stoppages in progress†	Number of stoppages beginoiog	Workiog days lost per thousand employees through all stoppages io progress†	Number of stoppages beginning	Working days lost per thousand employees through all stoppages in progress†
Agriculture, forestry, fishiog ...	2	uoder 10	6	100— 250	3	under 10	1	under 10	2	under 10
Coalmining	1,666	500—1,000	1,458	1,000—1,500	1,205	250— 500	987	500—1,000	1,058	500—1,000
All otber mining and quarrying ...	3	under 10	8	20— 50	2	under 10	6	under 10	5	100— 250
Grain milling	1	uoder 10	3	20— 50	2	under 10	1	10— 20	1	under 10
Bread and flour confectionery, biscuits	2	500—1,000	2	under 10	2	uoder 10	6	under 10	—	—
All other food industries	10	10— 20	9	10— 20	12	10— 20	10	under 10	10	20— 50
Drink	—	—	10	20— 50	8	under 10	7	20— 50	10	20— 50
Tobacco	3	100— 250	—	—	—	—	—	—	—	—
Coke oveos and manufactured fuels	4	1,500—2,000	2	50— 100	2	50— 100	—	—	1	10— 20
Cbemicals, explosives, plastics, etc.	18	50— 100	22	20— 50	10	20— 50	15	20— 50	15	10— 20
Pbarmaceutical and toilet preparations	1	20— 50	3	100— 250	—	—	—	—	—	—
Oils, paints, soap, polishes, adhesives, etc.	3	under 10	1	under 10	5	under 10	6	20— 50	1	under 10
Iron (inc. castings) and steel (inc. tubes)	55	50— 100	54	500—1,000	65	500—1,000	52	100— 250	92	500—1,000
All other metal manufacture ...	13	50— 100	24	100— 250	23	500—1,000	16	250— 500	28	100— 250
Non-electrical engioeering ...	126	100— 250	140	100— 250	159	1,000—1,500	130	50— 100	199	100— 250
Electrical machinery, apparatus and goods	64	100— 250	36	100— 250	53	500—1,000	81	100— 250	84	100— 250
Shipbuilding and marine engioeering	74	1,000—1,500	91	1,000—1,500	78	1,500—2,000	66	250— 500	91	500—1,000
Motor vehicles and cycles ...	129	1,000—1,500	102	500—1,000	116	1,500—2,000	129	500—1,000	165	500—1,000
Aircraft	34	100— 250	37	100— 250	33	1,000—1,500	33	100— 250	39	50— 100
Locomotives, carriages, trams, perambulators, etc.	13	100— 250	19	100— 250	22	500—1,000	11	50— 100	13	50— 100
Metal goods not elsewhere specified	51	20— 50	47	50— 100	54	250— 500	50	50— 100	58	50— 100
Cotton, flax and man-made fibres—preparation and weaving ...	9	20— 50	4	under 10	7	10— 20	7	10— 20	9	50— 100
Woollen and worsted	3	under 10	4	uoder 10	2	under 10	7	under 10	4	under 10
Hosiery and other knitted goods	4	10— 20	5	under 10	9	100— 250	13	20— 50	9	10— 20
All other textile industries ...	10	under 10	15	50— 100	15	20— 50	11	20— 50	16	20— 50
Clothing other than footwear ...	12	10— 20	6	under 10	11	under 10	6	under 10	14	10— 20

Footwear	3	20— 50	7	20— 50	3	10— 20	2	under 10	5	10— 20
Bricks, fireclay and refractory goods	6	20— 50	4	under 10	8	20— 50	7	50— 100	7	20— 50
Pottery	1	under 10	3	20— 50	3	10— 20	—	—	1	under 10
Glass	11	250— 500	4	50— 100	5	100— 250	5	20— 50	9	50— 100
Cement, abrasives and huilding materials not elsewhere specified	9	20— 50	8	20— 50	5	20— 50	7	10— 20	12	50— 100
Furniture, bedding, upholstery ...	13	100— 250	7	under 10	11	50— 100	5	under 10	12	20— 50
Timher, other manufactures of wood and cork	6	10— 20	10	50— 100	4	10— 20	6	100— 250	8	20— 50
Paper and board, cartons, etc. ...	3	under 10	7	20— 50	8	20— 50	7	under 10	11	20— 50
Printing, puhlishing, etc.	2	under 10	3	under 10	4	under 10	3	under 10	3	under 10
Other manufacturing industries ...	23	50— 100	25	100— 250	34	250— 500	21	50— 100	49	50— 100
Construction	215	50— 100	286	100— 250	316	100— 250	168	100— 250	222	50— 100
Gas, electricity and water ...	16	50— 100	6	under 10	7	under 10	5	under 10	17	20— 50
Railways	12	20— 50	8	20— 50	8	500—1,000	5	under 10	5	10— 20
Road passeoger transport ...	22	100— 250	17	50— 100	28	100— 250	18	20— 50	32	100— 250
Road haulage contracting ...	22	100— 250	37	50— 100	27	20— 50	26	20— 50	32	20— 50
Sea transport	7	500—1,000	2	under 10	3	10— 20	1	under 10	—	—
Port and inland water transport ...	107	2,000—3,000	66	1,000—1,500	66	1,000—1,500	80	250— 500	102	500—1,000
Other transport and communication	9	under 10	8	50— 100	4	20— 50	3	10— 20	9	100— 250
Distributive trades	20	under 10	42	under 10	31	under 10	26	under 10	39	under 10
Insurance, banking and finance ...	—	—	—	—	—	—	2	under 10	1	under 10
Professional and scientific services	2	under 10	7	20— 50	4	under 10	3	under 10	2	under 10
Miscellaneous services (entertainment, sport, catering, etc.) ...	16	under 10	20	under 10	28	10— 20	13	under 10	15	under 10
Puhlic administration and defence	12	under 10	6	under 10	9	under 10	5	under 10	16	under 10
TOTAL	2,832*	100— 250	2,686*	100— 250	2,449*	250— 500	2,068*	50— 100	2,524*	50— 100

* Some stoppages of work involved workers in more than ooe industry group, but have each been counted as only one stoppage in the total for all industries takeo together. For this reason the sums of the individual industry groups may not agree exactly with the total.

† It is thought that precise figures of working days lost per thousand employees in different industry groups would he misleading hecause the proportion of administrative, clerical aod technical workers in the employee figures varies considerahly from iodustry group to industry group. For each industry group, therefore, the range of figures within which the actual figure lies is given.

Source : Ministry of Labour

APPENDIX XIX

ANALYSIS BY CAUSE OF AVERAGE NUMBER OF STOPPAGES BEGINNING PER YEAR, 1960–1964, AND AVERAGE NUMBER OF DAYS LOST PER YEAR THROUGH THEM, IN MAIN INDUSTRY GROUPS

Principal cause	Mining and quarrying		Metals and engineering		Shipbuilding and marine engineering		Vehicles		Textiles and clothing		Construction		Transport and communication		All other industries and services		All industries and services	
	Average number of stoppages	Average number of days lost	Average number of stoppages	Average number of days lost	Average number of stoppages	Average number of days lost	Average number of stoppages	Average number of days lost	Average number of stoppages	Average number of days lost	Average number of stoppages	Average number of days lost	Average number of stoppages	Average number of days lost	Average number of stoppages	Average number of days lost	Average number of stoppages	Average number of days lost
		000's		000's		000's		000's		000's		000's		000's		000's		000's
Wages :—																		
Claims for increase ..	35	96	125	731	37	228	71	339	12	10	71	107	36	100	65	118	446	1,730
Other wage disputes ..	585	163	33	72	8	7	25	39	10	4	38	31	31	41	20	38	750	395
All wage disputes ..	620	259	158	803	45	235	96	378	22	14	109	138	67	141	85	156	1,196	2,125
Hours of labour ..	14	4	6	11	1	1	4	11	2	2	2	3	2	1	5	3	35	36
Demarcation disputes..	7	1	13	10	9	28	6	12	1	†	12	10	7	2	6	7	60	71
Disputes concerning the employment or discharge of workers (including redundancy questions)	28	21	69	79	13	21	23	99	9	3	65	43	17	59	38	20	261	346
Other disputes mainly concerning personnel questions	20	14	19	24	3	1	7	27	2	1	12	7	5	45	7	2	75	121
Other working arrangements, rules and discipline	579	108	48	31	7	7	28	55	8	3	24	8	46	68	29	17	770	298
Trade union status	†	9	29	46	2	6	9	20	3	5	13	7	6	18	19	18	81	134
Sympathetic action ..	11	19	6	9	1	†	3	13	—	—	5	2	4	2	3	3	33	49
Total	1,279	435	348	1,013	81	299	176	615	47	28	242	218	154	336	192	226	2,511*	3,180*

* Some stoppages of work involved workers in more than one industry group but have each been counted as only one stoppage in the total for "All industries and services". For this reason the sums of the individual industry groups do not agree exactly with the totals shown for "All industries and services".

† Less than 0·5 average.

Source : Ministry of Labour

SECOND MEMORANDUM: THE LAW AFFECTING TRADE UNIONS AND EMPLOYERS' ASSOCIATIONS

Introduction

1. This memorandum draws attention to some of the issues concerning the law affecting trade unions and employers' associations to which the Royal Commission will wish to give attention. Some of them have already been mentioned in the first memorandum of evidence. An attempt is made in the following paragraphs to set out the problems surrounding these issues together with some of the solutions which have been suggested. Under the system of industrial relations in the United Kingdom, many of the problems arising (as the first memorandum indicated) depend primarily for their solution on action by trade unions and by employers' associations. This applies to a number of the issues examined below. While recognising this, however, the memorandum examines the possibilities of action by the Government. The memorandum is not concerned to advocate or to argue for or against such action but merely to describe what appear to be the possibilities and the relevant considerations. Practice in other countries is also relevant.

2. The issues dealt with in this memorandum are:

(1) The law and strikes.

(2) The status of collective agreements.

(3) The legal status of trade unions.

(4) Recognition of trade unions.

(5) Trade unions and the individual worker.

(6) Dismissals, discipline and workers' grievances.

(7) Labour courts.

(1) The Law and Strikes

The right to strike

3. There is no statute laying down the right to strike in the U.K. In this it resembles most other industrial countries, though in some the right to organise and bargain collectively is laid down by statute (e.g. the U.S.A. and West Germany). Striking is lawful in the U.K. because it does not conflict with the common law as amended at a number of points by statute. These amendments, many of which were prompted by decisions of the courts which had had the effect of restricting the right to strike, make up a considerable part of the law affecting trade unions and employers' associations. (The statutory definition of a trade union covers combinations of either workmen or employers.) The main immunities enjoyed by trade unionists are:

(1) trade unions cannot be sued in tort (section 4 of the Trade Disputes Act 1906);

(2) in the circumstances of a trade dispute, persons cannot be prosecuted for criminal conspiracy to do something which would not itself be punishable as a crime (section 3 of the Conspiracy and Protection of Property Act 1875); and

(3) in the circumstances of a trade dispute, common law actions cannot be brought against persons on the grounds of:

(*a*) civil conspiracy to do something not in itself actionable (section 1 of the 1906 Act);

(*b*) inducing breach of contract of employment (section 3 of the 1906 Act)—though this does not prevent an action on the ground of inducing breach of a contract other than a contract of employment, e.g. a commercial contract;

(*c*) interfering with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or his labour as he wills (section 3 of the 1906 Act); or

(*d*) threatening to break a contract of employment (section 1 of the Trade Disputes Act 1965).

4. Generally speaking, then, trade unions and individual persons are protected from actions in tort and from criminal prosecution when they call strikes or go on strike. There are certain exceptions. Under section 5 of the 1875 Act it is a criminal offence to break one's contract of employment, either alone or in combination, knowing that the probable consequence will be to endanger human life, cause serious bodily injury or expose valuable property to destruction or serious injury. The Merchant Shipping Act 1894 and the Police Act 1964 (Police (Scotland) Act 1956 in Scotland) place limitations as regards merchant seamen under articles and policemen respectively on their freedom to strike. Gas, water and electricity workers commit a criminal offence under section 4 of the 1875 Act, as extended by section 31 of the Electricity (Supply) Act 1919, if they break their contracts knowing that the probable consequence will be to deprive the persons supplied by the undertaking of their supply. The Government also have powers under emergency legislation. Under section 2 of the Emergency Powers Act 1920, when an emergency has been proclaimed regulations may be made for securing the essentials of life to the community, but these may not impose any form of industrial conscription nor make it an offence to take part in a strike or peacefully persuade others to do so. Section 2 of the Emergency Powers Act 1964 makes permanent the regulations under which the temporary employment of members of the armed forces of the Crown in agricultural work or in other urgent work of national importance may be authorised.

5. As to contract law, the position is that trade unions can enter into contracts which will be enforced by the law, but only subject to the very considerable exceptions laid down in section 4 of the Trade Union Act 1871. In particular, collective agreements between trade unions, e.g. between a trade union of workers and an employers' association, and certain agreements between the members of a trade union as such will not be directly enforced by the courts. Thus, if a union called a strike in breach of a collective agreement, or an employers' association locked out its workers in breach of such an agreement, neither could be sued for breach of contract. (The common opinion is that a contract between a single employer and a trade union would also not be enforced by the courts though this is not specified by statute.)

6. Trade unions run no risk, therefore, of being sued for breach of contract in the circumstances of a strike. But if an individual worker goes on strike without having terminated his contract of employment after due notice, he will break that contract and may be sued for damages by his employer. In practice, however, such actions are seldom brought.

7. Three main points arise from the present situation: the complexity of the law, the weight which it gives to the distinction between strikes in breach of contract and strikes not in breach of contract and the fact that the statutory immunities extend to all strikes in the circumstances of a trade dispute without distinction.

Complexity

8. The law is complicated. When trade disputes come before the courts and common law principles are applied to the strike situation, the statutory immunities mentioned in paragraph 3 may be affected by developments in the common law. Fears of this were expressed in some circles following the decision in *Stratford v. Lindley* (1964) in which trade union officials were found to have procured breaches of commercial contracts, which is not protected by trade union law, and to have procured breaches of contracts of employment in circumstances where the 1906 Act gave no protection as it was found that there was no trade dispute.

9. An alternative to the present system would be to affirm the right to strike, in the circumstances of a trade dispute, by statute (and also the right to lock-out). It would be necessary to qualify the exercise of these rights so as to achieve much the same position as at present, e.g. along the lines of sections 4 and 5 of the Conspiracy and Protection of Property Act 1875 and the Emergency Powers Act 1920 and in respect of merchant seamen under articles and police (see para. 4).

10. This would do away with the element of uncertainty in the present situation. But the disadvantage of rigidity in the law is that the law might get out of touch with the actual facts of the situation. Society changes and the role of trade unions and of employers' associations changes. There are advantages in having the law relating to these bodies governed by common law principles which can be developed by the courts according to the needs of the times.

Breach of contract

11. A worker who strikes without having terminated his employment with due notice breaks his contract of employment and may be sued by his employer for damages. As Lord Devlin pointed out in his speech in *Rookes v. Barnard* (1964), a worker is very unlikely, in fact, to terminate his employment before striking. His real object is to suspend the contract and resume it on more favourable terms. The notice given by unions of official strikes is not normally notice of termination of employment of their members. Most strikers, if not all, are open, therefore, to actions for damages taken by their employer. In practice, such actions are rare, partly because employers wish to preserve good relations with their employees, and partly because it might be difficult to recover damages from workpeople. There is the further point, to which Professor Wedderburn has drawn attention, that strikers breaking their contract of employment in combination lay themselves open to an action on the grounds of civil conspiracy and such an action might not be prevented by section 1 of the Trade Disputes Act 1906 (see para. 3(3)(*a*)) because breach of contract is in itself actionable.

12. The emphasis placed by the law relating to strikes on the question whether or not a strike is in breach of contract is to some extent artificial. It does not correspond with the practical distinctions recognised in industry between strikes which are justifiable and strikes which are not.

13. There is a case for considering an alteration in the law so that striking does not break the contract of employment. For example, it might be laid down by statute that, in the absence of an undertaking not to strike, a strike which took place after due notice (which might be notice not less than that required to terminate the contract) was to be regarded as putting the contract of employment into suspense but not as breaking it. The employer's right not to re-engage strikers could be preserved by providing that while contracts were in suspense the employer could terminate them without notice. It would be for consideration whether such a change ought to apply to go-slows and overtime bans. The first

presumably implies a breach of contract, as the law stands at present, and the second may do, e.g. if the terms of the contract require overtime to be worked when necessary. Work-to-rules would, on the face of it, not be affected by a change in the law because presumably they do not result in breaches of contract.

Extent of immunities

14. The immunities granted by trade union legislation apply to all strikes, provided the dispute is one within the meaning of the definition of a trade dispute laid down in the Trade Disputes Act 1906. This reads as follows:

> "the expression 'trade dispute' means any dispute between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of the employment, or with the conditions of labour, of any person, and the expression 'workmen' means all persons employed in trade or industry, whether or not in the employment of the employer with whom a trade dispute arises".

15. This definition is very widely drawn and would appear to cover disputes over such issues as demarcation and the enforcement of the closed shop as well as sympathetic action. The question arises whether the protection of the law ought to be withdrawn from certain types of strike by narrowing the definition. (In the U.S.A., for instance, strikes of certain kinds—e.g. over work assignment or to put pressure on an employer other than the strikers' own employer—are unfair labour practices, and in West Germany strikes to enforce a closed shop would be illegal). The most obvious restriction in the United Kingdom would be to withdraw the protection of the law from unofficial strikes.

16. There are a number of serious difficulties about doing this. The distinction between official and unofficial is not a satisfactory one on which to base the law, because it is a distinction depending upon the decision of a trade union and so it can be drawn wherever the trade union wants to draw it. There is no doubt that if the protection of the law were to be withdrawn from unofficial strikes, trade unions would come under severe pressure from their members to make such strikes official. The end result might be a decrease in the number of unofficial strikes and an increase in the number of official strikes which would be no gain at all.

17. Withdrawing the protection of the law would lay unofficial strikers open to criminal prosecutions and to civil action. It is very doubtful if public opinion generally would support the re-importing of the criminal law into industrial relations. It is in any case, as war-time experience showed, very difficult, if not impossible, to enforce the criminal law against large numbers of strikers. The law would be brought into contempt.

18. There are not the same considerable objections to providing civil remedies against unofficial strikes. One possibility would be to withdraw the protection of section 3 of the Trade Disputes Act 1906 from the inducement of a strike in breach of contract. If the proposal in paragraph 13 were adopted, a strike in breach of contract would be a strike without due notice: many unofficial strikes are of this kind. Another possibility would be to make the agreements between employers and trade unions for settling disputes enforceable at law. Most unofficial strikes are strikes in breach of the appropriate procedure for settling disputes, and few official strikes are. The possibility is explored further in paragraphs 28 to 35 of this memorandum.

19. It has also been suggested that unofficial strikers should be penalised by the loss of entitlement of rights based on continuity of employment. The Contracts of Employment Act 1963 at present provides that persons going on strike in breach of contract break their continuity of employment and so lose their accumulated entitlement to rights to notice under that Act. But as has

been said (paragraph 11), it seems that almost all strikes are in breach of contract, official as well as unofficial. The Redundancy Payments Act 1965 is to repeal this particular provision of the Contracts of Employment Act on 6th December 1965. The effect will be that as regards both rights to notice under the Contracts of Employment Act and rights to redundancy payments under the Redundancy Payments Act, strikes, whether in breach of contract or not, will not break continuity of employment (though time spent on strike will not count towards the period of continuous employment).

20. Apart from the difficulty of defining an unofficial strike already referred to and the danger of introducing an inflexible element into the situation, the most serious defect of provisions of this kind is that the penalty is not an immediate one. All that happens is that if and when the worker is dismissed or becomes redundant he does not get the benefits of certain rights he would otherwise have had. It is to be doubted if this would be an effective deterrent.

21. Another obvious possibility is to withdraw the protection of the law from seriously damaging strikes, on the ground that they are an unacceptably wasteful way of settling differences in the modern economy. To some extent the law already distinguishes such strikes from others. The statutory restriction on strikes in certain essential services and the Government's powers in time of emergency are set out in paragraph 4.

22. Experience over many years suggests that the Government is liable to be drawn into large scale disputes. With the law as it is at present, the Government has the option of direct discussions with the parties or of appointing an arbitrator or body of inquiry or of taking no special action. If the protection of the law were to be withdrawn, in whole or in part, from seriously damaging strikes, this present flexibility of action would be lost and this would seem to be undesirable.

23. An alternative to banning damaging strikes would be to require by statute that there should be a "cooling-off" period between the union giving notice of the strike and its start. The arguments put forward in favour of such a change in the law are that a cooling-off period gives the parties to the dispute time to reconsider their positions, allows public opinion to make itself felt and provides time for intervention, e.g. by the Government, in an attempt to secure a settlement. In the United States, when a strike threatens to cause a national emergency, the President has the power to invoke a procedure, involving independent inquiry and a vote by the workers on the employer's last offer, which must be completed before the strike may proceed. Experience of this procedure has not been encouraging. It has been found that the attitudes of the two sides are at least as likely to harden as the reverse during the cooling-off period, and every vote that has been held on the employer's final offer has, in practice, gone against acceptance.

24. Another proposal that has been put forward is that, before a large scale official strike can take place, the law should require that there should be a secret ballot of the workers concerned to ascertain their wishes. Such ballots have been held in the past and, on two occasions, revealed rank and file opposition to a strike. In 1962, a ballot of members of the constituent unions of the Confederation of Shipbuilding and Engineering Unions failed to produce a majority in favour of backing a wage claim by an official strike threat, and in 1963 ballots of members of the Amalgamated Engineering Union and the National Union of General and Municipal Workers at Fords, Dagenham, showed a majority against an official strike to secure the reinstatement of 17 dismissed employees. In general, however, there is no sound reason for supposing that compulsory secret ballots would reduce the number of strikes. The very compulsion to hold a ballot might harden the opinion of the workers

concerned in favour of striking and the fact that a strike had been called as the result of a ballot might make it more difficult for it to be called off.

25. It would not seem practicable to require a cooling-off period or a secret ballot in the case of unofficial strikes because such requirements could not be enforced. For this reason the suggestions have been considered only in relation to official strikes.

(2) The Status of Collective Agreements

26. As has been pointed out (paragraph 5) the contracts entered into between employers' associations and trade unions (and probably the contracts entered into between single employers and trade unions) are not legally enforceable in this country. This is in striking contrast to the situation in most other countries.

27. Collective agreements are principally concerned with wages and other conditions of employment. Although they cannot be legally enforced they are nevertheless in practice observed by the employers concerned. There are a number of possible reasons:

(1) Employers and trade unions both want the system to work.

(2) Collective agreements may be enforced indirectly through the contracts of employment between individual workers and their employers, which frequently incorporate, expressly or by implication, the terms of collective agreements.

(3) Up to the second world war, there was nothing to prevent an individual contract being drawn up in express terms which were better or worse than those of the relevant collective agreement. Under war-time legislation, subsequently continued in section 8 of the Terms and Conditions of Employment Act 1959, an employer can be compelled to apply to his workers terms and conditions of employment not less favourable than those laid down in any relevant collective agreements. It is not necessary that the employer should be a party to the agreement.

(4) The Fair Wages Resolution of the House of Commons (see the fourth memorandum) incorporated in Government contracts (a practice which is generally followed by local authorities and the nationalised industries) requires the contractor to observe the established terms and conditions for the industry or trade in the district or, in the absence of these, terms and conditions not less favourable than other employers whose general circumstances are similar.

28. As well as being observed, in practice, by employers the terms of collective agreements are also observed by trade unions. It has, however, been suggested that if such agreements were made legally enforceable this would reduce the number of unofficial strikes. The law could provide that trade unions would be liable to be sued for damages if their members struck in breach of collective agreements. This would have the effect of encouraging unions to reform their internal organisation and to take disciplinary and other measures to reduce the number of, or eliminate, unofficial strikes. Before examining this argument in more detail, it is worth considering what is meant by a strike in breach of a collective agreement.

29. A strike to alter the terms of a collective agreement, while the agreement was still current, would appear to involve a breach. In contrast a strike to procure better terms after an agreement expired would not be a breach; but this distinction is difficult to apply in the United Kingdom where agreements frequently have no fixed term and no formal provision for terminating them (though there have been some fixed term agreements in recent years, e.g. the

three-year agreements in electricity supply, building and engineering). A strike over the interpretation of an agreement or its application to a particular case would not necessarily be a breach. It would be a breach if there was an agreed procedure for settling such differences of opinion and this had been disregarded.

30. There is, in fact, frequently agreed provision for the settlement of disputes. It is characteristic of industrial relations in this country for a procedure agreement to be negotiated between a trade union or group of trade unions and an employers' association and to lay down the procedure to he followed in the event of a dispute between the parties to the agreement or between the trade union or unions concerned and individual employer members of the employers' association. Such an agreement would not commonly apply to a dispute between an employer and an individual worker unless the trade union concerned were to take up the individual's complaint and turn it into a collective dispute. The procedure may apply indiscriminately to disputes over the renegotiation of agreements about wages etc., disputes over the interpretation of such agreements and disputes about matters not covered by agreements. If such a procedure agreement were to be enforceable in the courts, a strike or a lock-out embarked upon before the procedure was exhausted (or, if the procedure precluded strikes, embarked upon at all) would make the party responsible liable to be sued by the other party for the damages caused by the strike or lock-out.

31. Damages awarded in the circumstances envisaged could be very heavy indeed. The reason why the 1906 Act makes trade unions immune from actions of tort is that when the House of Lords held in the *Taff Vale* case (see paragraph 37) that a trade union could he sued in its registered name for torts of its servants or agents, the damages resulting showed that such cases might be a crippling blow to unions. There is, however, a distinction to be drawn between an action in contract against a trade union and an action in tort. In the former case, a trade union has specifically pledged itself to do something and the pledge has not been honoured. To that extent, there is a stronger case for exposing a trade union to the risk of being sued for damages in the case of breach of an agreement than in the case of tort. Nevertheless, it would almost certainly be necessary to limit in some way the damages that could be awarded.

32. Under existing law it is not clear whether trade unions, in signing agreements, act as principals or as agents for their members. If procedure agreements were to he made enforceable at law, it would seem right to provide that, if the trade union which was party to the agreement called a strike in breach of it, that union could be sued. Similarly the employer or employers' association, party to the agreement, should he made liable to be sued for a breach. Such provision would not he important in practice, because, as has been pointed out, employers and trade unions do not commonly break agreements. If, however, it were to be provided that a union could be sued in the event of any of its members going on strike in breach of an agreement, that could have great practical effect. Other questions would arise. If, in the case of an agreement between a trade union and an employers' association, a dispute arose between a union and an individual employer member of the association and a strike was called in breach of procedure, ought the right of action against the union to lie with the employers' association or the individual employer? Again, if individual workers went on unofficial strike in breach of procedure ought the employer's right of action to be only against the union or also against the individual workers concerned and/or the unofficial leaders who had induced the strike? Clearly damages against individuals would have to be subject to limitation, as in Sweden where no individual can be made to pay damages of more than 200 Kroner—about £14. It is to be noted that there could be no right of action against strikers who were not members of a trade union.

33. Having regard to the factors making for unofficial disputes (see the first memorandum), it would seem right to provide that if a union was sued for a breach of an agreement, it could plead in mitigation or rebuttal that it had done its best to prevent the breach but without success. But it would also seem reasonable to demand clear proof that the union had made a real effort to prevent the breach and normally exercised adequate discipline over its members.

34. Not all strikes fall neatly into two categories—those where both sides would concede that procedure had been exhausted and those where they would concede that procedure had not been exhausted. There is a third category of strikes where there is a difference of opinion between the two parties about whether or not procedure has been exhausted. If procedure agreements were legally binding, many of these cases might find their way into the courts. Interpretations of the agreements would be made by the courts, which would base themselves upon precedent and the strict rules of law. This might be a loss. At present, procedure agreements can be interpreted by the parties to them with the greatest possible flexibility and they consider this an advantage. It is possible also that making agreements into legally enforceable contracts would affect the way in which they were drafted—certainly as to their form and possibly as to their substance, depending upon the extent to which the signatories wished to be bound by legal obligations. Unions might even be tempted in some cases to withdraw from agreements, which if it were widespread would undermine the whole system of industrial relations. These problems might be overcome to some extent by giving jurisdiction over actions for breaches of agreements to special labour courts (see paragraphs 74–81) and giving them full discretion to take into account the actions of the employer, the individual strikers and any unofficial leaders, as well as of the union, in reaching their decision.

35. Another difficulty about the proposal is that employers might in practice be unwilling to take legal action for fear of worsening industrial relations. This reluctance might be diminished if jurisdiction lay with labour courts (see paragraphs 74–81). Actions are in fact sometimes brought by employers in other countries where collective agreements are legally enforceable—e.g. the U.S.A. (where, however, any damages awarded are often not in fact collected), West Germany and Sweden.

(3) The Legal Status of Trade Unions

36. Before 1871, it was doubtful if a trade union whose purposes were in restraint of trade was a lawful body in the sense that its agreements and trusts were protected by the law. This doubt was removed by section 3 of the Trade Union Act 1871. However, in section 4 of the Act, considerable restrictions were placed on the power of the courts to "directly enforce" agreements entered into by trade unions. In particular, agreements between the members of a trade union as such (and agreements between trade unions—see paragraphs 26–35) could not be enforced. The reason for restricting the power of the courts to enforce an agreement between the members of a trade union was to avoid bringing the courts into the internal affairs of unions, so that when, for example, a trade union calls out its members on strike, the courts cannot be put in the position of having to compel members to obey. It is more difficult to see the justification for precluding the courts from directly enforcing agreements between the members of a trade union in regard to contributions and benefits.

37. Section 3 of the Trade Union Act 1871 gave the trade unions much the same legal status as other voluntary bodies such as clubs and political parties. The Act also provided, however, that if a trade union registered itself under the Act (a proceeding which rendered it liable to certain—not onerous—obligations),

it could hold property through trustees and enjoy certain other advantages in that connection. An answer to the question whether this altered the essential status of trade unions as voluntary bodies (which meant that they could be sued only in certain very limited circumstances by means of a representative action in which individual defendants might represent the entire membership) was given by the decision of the House of Lords in the *Taff Vale* case (1901). According to that decision, a union registered under the 1871 Act was enough of a legal entity to enable it to be sued in its registered name for the torts of its servants or agents. This exposed trade unions to the possibility of being sued for crippling damages. In due course this danger was removed by section 4 of the Trade Disputes Act 1906 which made trade unions immune from actions in tort. The principle of the *Taff Vale* decision, however, remained untouched. Later decisions of the courts made it clear that a trade union could sue in its registered name for torts committed against the union and could sue or be sued for breach of contract, subject to the restrictions imposed by section 4 of the 1871 Act. In the case of *Bonsor v. Musicians' Union* (1956), the House of Lords held that a member of a registered trade union who had been expelled from the union in breach of its rules had a right of action for damages against the union for breach of his contract of membership under the rules (see also paragraph 58).

38. Unregistered unions are in a different position because they do not enjoy the limited advantages of registration and the consequences of the *Taff Vale* decision do not extend to them. As a result a person wishing to sue an unregistered union, e.g. for wrongful expulsion, would have to do so by bringing a representative action, which might be technically difficult because of the need to find defendants representative of a membership which may be continually changing. The great majority of trade union members are in registered unions but unregistered unions are quite numerous and some are large—e.g. the National and Local Government Officers' Association, the National Union of Teachers and the Union of Post Office Workers. Most trade unions of employers, i.e. employers' associations, are not registered.

39. Another point for consideration is the complete immunity of trade unions, registered and unregistered, from actions in tort. Section 4 of the 1906 Act, which confers this immunity, is not restricted to the circumstances of trade disputes and extends to all torts, e.g. libel, so that, for example, a person libelled in a trade union magazine would be unable to recover damages from the union.

40. The legal status of trade unions is, therefore, complicated. The Ministry of Labour is not aware that it gives rise to any serious difficulties in practice, though on the face of it there are features of the situation which could cause hardship. The evidence of trade unions and employers' associations may, however, throw more light on this. One way of clarifying unions' legal position would be to give them a status analogous to that of corporations, subject to the major immunities conferred by section 4 of the 1871 Act and section 4 of the 1906 Act if it were not to be decided, on other grounds, to modify these.

(4) Recognition of Trade Unions

41. Probably the great majority of the larger employers in the private sector in the U.K. recognise trade unions representing their manual workers and negotiate with them about wages and conditions of employment and other matters. Probably a majority, however, do not recognise unions which organise white-collar workers. It is likely that a majority of small employers (e.g. those employing 10 workers or less) do not recognise—i.e. do not negotiate with—any union, though this does not necessarily mean that such employers are opposed to their employees being union members or that they pay less than the established rates (see paragraph 27). In the public sector, it is the general

practice to recognise trade unions representing both manual and non-manual workers.

42. In the private sector there have been obstacles to the spread of white-collar unions in the attitudes of both employers and workers. There has not been the same willingness to join unions among white-collar workers as among manual workers, and many employers take the view that it makes for greater efficiency to reward white-collar workers on the basis of individual merit than to pay them common rates negotiated with a union. There has also been the fear that the spread of unionism among white-collar workers in the private sector would lead to more disputes involving these workers. On the other hand, white-collar organisation is generally agreed to have worked well in the public sector. It may also be true that the traditional picture of the white-collar worker as someone engaged in a clerical occupation with a close relationship with and special ties of loyalty to his employer, and therefore looked after by his employer without union intervention, is somewhat out of date; many white-collar workers are nowadays employed by large organisations on a common basis, often in new occupations of a technical character.

43. Besides the particular case of white-collar unions in the private sector, trade unions criticise the present position generally, because it means that they have to fight for recognition, and the issue causes a certain number of strikes each year. The Ministry often has difficulty in conciliating in recognition disputes (see the third memorandum). It is argued that it would improve industrial relations if there was a statutory obligation on employers to recognise trade unions representing their workers. It may also be felt that the role played in society today by trade unions is such that it is reasonable for the State to ensure that the trade union movement represents workers everywhere in the economy, i.e. can truly speak for all workpeople. There is no doubt that the trade unions have come to play an increasingly important part in the nation's affairs. This, as has been pointed out in the first memorandum, is witnessed by recent developments in the field of incomes policy and by their membership of N.E.D.C.

44. If general recognition of trade unions is accepted as desirable, the question arises whether this is likely to happen without legislative intervention. Even among private sector white-collar workers, there are signs that trade unionism and recognition by employers are spreading. There is, moreover, an inherent difficulty in the idea of a law requiring the recognition of trade unions. It would seem desirable to make such a requirement depend upon the union having first secured a reasonable degree of support among the employees concerned. If a union were unable to secure such a degree of support by voluntary means, it would be unlikely to achieve much success at the bargaining table. The grant of recognition would be meaningless if the employer, though compelled to appear at the negotiating table, were then able to refuse to negotiate seriously. If a union has sufficient membership to insist upon effective negotiation, it has probably got sufficient membership to insist on recognition without help from the law.

45. Other questions are:

(1) How would the degree of support to be enjoyed by a union to qualify for recognition be calculated—by reference to the total number of workers in the employment of the employer concerned or by reference to the number of workers in the occupation or occupations for which the union provided?

(2) What would be the position if more than one union claimed recognition in respect of the same occupation? If, in the case of a single union claiming recognition, the law were to provide that it must have in

membership 30 per cent. of tbe employees concerned, sbould the law provide tbat where two unions are claiming recognition they must bave 30 per cent. eacb or tbat it would be sufficient for them to secure 30 per cent. between them? In the latter case, would it be sufficient if one had secured 25 per cent. and another 5 per cent. membership?

(3) Would the situation be different again if one union bad secured recognition and was carrying out negotiations on bebalf of all the workers in its field and another union appeared on the scene and commenced recruiting? Sbould the second union be allowed to claim recognition when it had attained a certain level of membersbip? If so, what level would be appropriate? Would it bave a claim to recognition when its membership exceeded that of the union already recognised?

(4) Should an employer be entitled to withdraw recognition if the membership of a recognised union fell below a certain figure?

(5) Should a union be allowed to claim sole recognition wben it had achieved a certain percentage of membership?

46. Perbaps tbe chief difficulties in making recognition compulsory would arise from the present structure of the trade union movement, which is discussed in the first memorandum. It would clearly be undesirable to cause further fragmentation by setting up machinery which would encourage unions to seek recognition as representatives of workers already catered for, or whicb, on the otber hand, would hamper all change and perpetuate the present situation. If a union completely loses support among a particular group of workers and they wish to transfer to another union the function of representing them in negotiation with their employer, it does not seem right tbat the law should stand in their way. (Within the trade union movement these matters are regulated by the Bridlington Agreement—see the first memorandum). At the same time it must be recognised that when a previously unrepresented union establisbes membership in a plant and claims recognition, this may be resented by unions already recognised there. An employer would be in an impossible position if a new union established itself among his workers and claimed recognition through statutory channels, while unions already recognised threatened industrial action if recognition was accorded to the newcomer. (It may be noted that in the U.S.A. strikes intended to upset the results of the statutory machinery establisbed there for choosing bargaining representatives are unfair labour practices and as such outside the protection of the law.)

47. If definite rules were laid down as to what proportion of employees must be organised by a union for recognition to be compulsory, the size of the unit in respect of which recognition could be claimed would be vital to the future of trade union structure (see paragraph 45(1)). If small—e.g. eacb of the workshops in a large factory—this would in many cases enable many different unions, including craft unions, to secure recognition within the same establishment and would tend to perpetuate the present type of structure. If large—e.g. an entire plant or all the workers of a company operating several plants—this would favour general or industrial unions as against small craft unions whicb would tend to be squeezed out. Whatever the merits of a greater concentration of union membership into a few large unions, to enforce it by legislation would be a drastic step whicb could have detrimental effects on industrial relations.

48. As an alternative to laying down a fixed proportion of membership it would be possible to establish an independent tribunal to which unions refused recognition could appeal (possibly a labour court—see paragraphs 74–81). It might be provided that if it was found that the employer already recognised a

union or unions taking the workers concerned into membership or that more than one union claimed recognition in respect of them, the tribunal would make no award; if not, the tribunal could make an award that the employer should recognise the union if it found that the union had a reasonable degree of support and considered recognition justified in all the circumstances. It would be for consideration whether the tribunal should make a binding award or merely make a recommendation, relying for its sanction on the force of public opinion (which might however be ineffective).

49. If recognition were required only in a situation where a union has secured a fairly high level of membership, this would give some assurance that the employer could not frustrate the requirement to recognise by refusing to engage in serious negotiations. Nevertheless, if there were compulsory recognition cases might arise in which an employer refused to negotiate and the union could not compel him to do so. The question arises whether the law should also require—as in the U.S.A.—that employers and recognised unions should negotiate in good faith. It would be very difficult to enforce this. One method might be to allow complaints of failure to negotiate to be made to a tribunal with the power to make binding arbitration awards when satisfied there had been such failure.

(5) Trade Unions and the Individual Worker

The closed shop

50. Although the wages and conditions of some 18 million workers out of a total of 23 millions are determined by collective agreements or by wage regulation orders (see the first memorandum), only 10 million workers are members of trade unions. Is it reasonable that a worker should benefit from the activities of a trade union and decline to belong to it? This is the issue which gives rise to argument over the closed shop and which has been high-lighted in recent months by the case of *Rookes v. Barnard* (1964). In this case Mr. Rookes quarrelled with and resigned from his union, which had 100 per cent. membership among the employees concerned. When he refused to rejoin a threat of a strike (which would have been in breach of the employees' contracts) induced the employer to dismiss him. Mr. Rookes successfully sued three officers of the union for intimidation and the court's decision was upheld by the House of Lords (after being reversed by the Court of Appeal). Because of the uncertainty created by this decision about the protection afforded by trade union legislation to threats of strikes, the Government decided to introduce the Trade Disputes Act 1965 (see paragraph 3(3)(d)) which restored the position generally believed to exist before *Rookes v. Barnard* pending a full examination of the whole issue by the Royal Commission. The closed shop issue is one aspect of the question of the relationship between the trade union and the individual worker. Other aspects are considered in paragraphs 58–62.

51. In a closed shop, trade union membership is either formally or in practice a condition of employment. The closed shop, therefore, involves the agreement of the employer or at least his acquiescence. It may take one or two principal forms—(1) an agreement that the employer will recruit only trade union members which gives the union control over the supply of labour (see the section of the first memorandum on industrial training) or (2) an agreement that recruits, if not already members of the union, must join it (sometimes known as the union shop). Normally this means a particular union, not just any union. Moreover, a closed shop may be approached in two different ways. The method favoured by trade unions in the U.K. is to obtain 100 per cent. membership by voluntary means and then to seek to maintain it. This may be done exceptionally by securing a formal agreement with the employer to make trade union

membership a formal condition of employment but perhaps more often through a tacit understanding. If the employer declines to enter into such an agreement or understanding and takes into employment non-unionists the union may in such circumstances threaten or call a strike to preserve the closed shop. A less common method is for a closed shop agreement to be sought before there is 100 per cent. membership, which implies that existing employees who are not unionists must either join or be dismissed from their employment. Where the closed shop exists it usually rests on an informal understanding rather than a formal agreement, though there are examples of formal agreements in London Transport and (an industry-wide agreement) in textile finishing.

52. Dr. W. E. J. McCarthy in "The Closed Shop in Britain" (1964) estimates that some $3\frac{3}{4}$ million workers—about 16 per cent. of employees in Great Britain —are affected by the closed shop. For employees who are trade unionists the figure was higher; roughly two out of every five are employed in closed shops. The proportion of the labour force affected by the closed shop varies from about 26 per cent. in manufacturing and extraction and 22 per cent. in transport to 10 per cent. in distribution, 6 per cent. in building and civil engineering and 2 per cent. in the service trades. Dr. McCarthy's list of comprehensively closed trades comprises among manual workers coal-miners, craftsmen and other manual workers in printing, process workers and skilled maintenance men in iron and steel, craftsmen and other manual workers in commercial shipyards, sailors and other deck hands, dockers in commercial dockyards, bus workers and maintenance staff employed by London Transport, craftsmen in cotton and other textiles, hatters, Scottish bakers, manual workers in London's wholesale markets and film production workers; and among non-manual workers, draughtsmen in commercial shipyards, press telegraphists and proof readers, musicians and trade union and Labour Party officers and staff. Dr. McCarthy explains that what is meant is not that it is impossible for a single non-unionist to remain within these trades, but that the great majority would find it impossible to remain outside a union for any length of time and that the amount of non-unionism is very small. These trades cover altogether some 1,430,000 workers —about 39 per cent. of all workers in closed shops; about another 37 per cent. are in mainly closed trades (where the majority of workers are in closed shops though some open shops exist), comprising unskilled manual workers in iron and steel, manual workers in engineering, in textile finishing and in oil refining, engineers and other craftsmen in the merchant service and manual workers in railway workshops. The rest are in isolated closed shops in mainly open trades. Only 8 per cent. of workers in closed shops are non-manual—3 per cent. if Co-operative employees are excluded.

53. If a worker declines to belong to a trade union where there is a closed shop, normally he will not be taken into employment or he will be dismissed from employment. In a situation where an employer has not agreed to a closed shop and declines to dismiss a non-union member, he may be brought under pressure to do so by a strike of his other workers. This was the situation in the *Rookes* case. The view taken of such cases depends upon the answers given to a number of questions. Is it reasonable that trade union membership should be made a condition of employment? Is it reasonable that trade unions should seek agreements with employers to this end? Is it reasonable that unions should use the strike weapon to force employers to make such agreements?

54. It is sometimes suggested that the closed shop should be banned. Apart from the argument that it is unfair that workers should enjoy the benefits of trade union activities without sharing the responsibilities of membership, some employers favour the closed shop as a stabilising factor in relations with workers and as making it easier to set up and run efficient machinery for consultation

and negotiation. Moreover, it would be difficult to enforce a law banning the closed shop. It would be possible to withdraw the protection of trade union legislation from action intended to secure the termination of a non-unionist's employment and this might make it more difficult for unions to obtain or enforce closed shop agreements. On the other hand, a more practical approach to the whole problem might be to recognise the importance of the closed shop to the trade unions and the justification for it, and to provide, where it is established, safeguards for the individual. The cases where safeguards for the individual seem to be required are:

(1) When workers have conscientious reasons for not belonging to trade unions. In practice trade unions very often accept these. Sometimes arrangements are made for those concerned to pay to a charity an amount equivalent to union dues.

(2) When workers, though willing to belong to a trade union, are refused admission to it or expelled from it unreasonably. The law at present provides no protection in the former case and only limited protection in the latter. The general question of trade union members' need for protection in these circumstances is discussed further in paragraphs 58–66.

(3) When there are irregularities in the conduct of the affairs of a union operating a closed shop. The present law provides some protection against union irregularities, but, in a closed shop situation, the straight-forward redress of resignation from the union is not open to the union member and he may need more protection. This question is also considered in the context of trade union membership as a whole in paragraphs 58–66.

(4) When a closed shop is introduced in an establishment where there is not already 100 per cent. union membership. There is a case for saying that existing employees who are non-unionists should continue to have freedom of choice and the requirement of trade union membership be extended to new employees only.

55. Safeguards of this kind would clearly be necessary if there were any suggestion that the law should provide for the closed shop to be established in an undertaking, subject to suitable conditions being satisfied. Such a development in the law would, to some extent, follow logically from any legislation that might be thought desirable on recognition and could be justified on much the same grounds, i.e. that the national role being increasingly undertaken by the trade unions made a case for greater support by the State. One condition of a statutorily imposed closed shop would clearly have to be a high degree of support from the workers concerned.

56. There are difficulties about this proposal and it would be desirable to study the experience of countries like the United States which have administered legislation in this field. One difficulty is the question which union workers should be required to join. For a start it might be desirable to require non-unionists and new entrants to industry to join a union recognised by their employer, though it might also be desirable to make provision for workers to change to another union later if they wished. Clearly any such change in the law would have profound implications for the position of the individual worker vis-à-vis the trade union (as well as for the status of trade unions, which could no longer be regarded as voluntary bodies).

57. Short of the closed shop, a trade union's position is considerably strengthened if it can persuade employers to collect its membership subscriptions by deduction from wages (the "check-off"). This keeps up the membership and

saves the union money. Another possible way of raising trade union membership is by the union negotiating agreements, in respect of a limited range of matters, which are applicable to union members only. It seems desirable, in any case, that employers should encourage their workers to join trade unions, as is done in the Civil Service.

Trade union rules

58. Apart from political funds (which are regulated by the Trade Union Act 1913) statute law has little bearing on the rules of trade unions. The Trade Union Act 1871 makes it a condition of registration as a trade union that the Chief Registrar of Friendly Societies must be satisfied that the union's rules make provision for a number of matters such as auditing of accounts, but registration is not compulsory and, even in the case of registered unions, the Registrar has no power over the content of rules (except political fund rules). It has been alleged that many unions have rules which are in some degree out-of-date, obscure or inconsistent.

59. Since in some employments trade union membership is now obligatory or virtually so, expulsion from or refusal to admit to a union can have serious consequences for the individual. The rules governing these matters are therefore of vital importance for the individual. Yet some leave a very wide measure of discretion to the union executive (e.g. that they may expel a member "for such reasons and on such terms as they deem expedient") and others are too tightly or harshly drawn so that they have effects that may not have been intended. Redress may be obtained in the courts if a member is expelled in breach of the rules as was illustrated by the case of *Bonsor v. Musicians' Union* (1956). Mr. Bonsor was expelled from the Musicians' Union for persistent non-payment of dues; when he later offered to make good his arrears if re-admitted, the offer was refused. As the union maintains a strict closed shop, he was not able to obtain employment as a musician. He sued the union for wrongful expulsion and, after his death, the action was continued by his widow. It was found that the procedure used in the expulsion had not been strictly in accordance with the rules, and damages were awarded against the union (a registered one—for possible difficulties in the case of an unregistered union see paragraph 38).

60. If there has been no breach of the rules no redress can be obtained in the courts for unreasonable expulsion. Thus in *Faramus v. Film Artistes' Association* (1963), Mr. Faramus had earned his living as a film extra for several years when it was discovered that many years before, he had served two prison sentences. The Film Artistes' Association, which had a rule barring from membership any person who had been convicted of a criminal offence (intended to protect members against petty theft, to which they are particularly exposed in their profession) thereupon excluded him from membership. The courts held that Mr. Faramus was not eligible for membership and that the union committee had had no authority to admit him.

61. Misconduct of a union's affairs can be challenged in the courts only by a member. Thus, it would not be possible to obtain redress in the courts for unreasonable refusal to admit to membership.

Irregularities in the conduct of unions' affairs

62. Injustice to trade union members may also arise over irregularities in the conduct of internal union affairs, e.g. over union elections. (Serious irregularities may also be of concern to others having dealings with a union, e.g. employers, the Government and the T.U.C.) Election irregularities were the issue in the well-known case of *Byrne v. Haxell* (1961), where the court found that Mr. Haxell and others, members of the former communist-dominated leadership

of the Electrical Trades Union, had conspired to falsify the results of a ballot for the general secretaryship in which Mr. Byrne and Mr. Haxell were rival candidates. The court granted a declaration that Mr. Byrne was general secretary of the union, but the case was protracted and expensive and it was brought only after allegations of irregularities and fraudulent manipulation of elections had been going on for years.

Possible remedies

63. The law does not therefore protect the union member completely from suffering injustice at the hands of his union and, when it does, the process may be long and expensive. The relative lack of protection derives largely from the fact that unions have been viewed as voluntary associations in whose internal affairs the courts should not normally interfere. This view is no longer wholly realistic in modern conditions. It is often suggested that in order to safeguard the position of individual members (1) unions' rules ought to be subject to the approval of an independent person like the Chief Registrar of Friendly Societies and (2) it should be possible for a person whose exclusion from a trade union has resulted or is likely to result in the loss of his job or in refusal of employment for which he is qualified to be able to appeal to an impartial body and for union members to appeal against election and other irregularities.

64. The oversight of rules by someone like the Registrar would need legislation. The most satisfactory way of carrying out the second suggestion would be for trade unions to set up machinery themselves for the hearing of such appeals by impartial bodies. This would go a long way towards ensuring that the machinery would operate successfully and that it would be well adapted for its task. In the U.S.A. two unions—the United Automobile Workers and the Upholsterers—have established independent review boards of outside persons to which members can appeal for final decision against alleged violation of their rights. No such developments have yet occurred, however, in this country.

65. If, however, unions decline to set up appeals machinery, it is for consideration whether legislation should provide for appeals to be made—perhaps to the labour courts discussed in paragraphs 74–81 below, or alternatively to the Registrar.

66. The difficulty about legislation is that powers sufficient to prevent abuses might restrict or might be represented as restricting the liberty of action which it is essential that unions should have in order to operate freely and independently. This may be illustrated by the provisions of the International Labour Convention (No. 87) on freedom of association and protection of the right to organise, which the U.K. has ratified. These are:

Article 2.

Workers and employers, without distinction whatsoever, shall have the right to establish . . . organisations of their own choosing without previous authorisation.

Article 3.

(1) Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes.

(2) The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

(6) Dismissals, Discipline and Workers' Grievances

67. From the legal point of view, relations between the employer and the individual worker are governed primarily hy the contract of employment and disputes hetween them can he settled according to the terms of the contract, if necessary hy reference to the courts. There is also a certain amount of statute law which is relevant. Thus the Contracts of Employment Act 1963 lays down minimum periods of notice of termination of the contract and the Factories Acts impose certain duties on the employer in such matters as the provision of safe working conditions. In regard to dismissal, however, employer and employee are viewed hy the law as equal parties to the contract, either of whom may terminate it after due notice without giving any reason. Nor does statute law regulate the employer's disciplinary powers (apart from certain provisions in the Truck Act 1896 regulating the deduction of fines from workers' pay). If either party considers he has suffered loss through failure of the other party to ohserve the contract, he may sue for damages. It is very rare, however, for employees—particularly manual workers—to hring such cases against their employer, hoth hecause they are unfamiliar with the law and deterred hy the possihle expense and hecause in many cases the contract would he silent on such matters as discipline or reasons for termination, and, so far as the law is concerned, the employer would have a considerahle discretion to decide these matters as he wished.

68. In practice, too, questions of discipline and dismissal are widely regarded in industry as heing the prerogatives of management. (They may, however, he governed by customs which are generally known, if often informal and unwritten—though many larger firms include their practice in these matters in works handhooks.) Seldom, too, is any formal procedure estahlished for dealing with individual complaints and grievances. Some firms have internal procedures but these may provide for no more than appeal to a higher level of management. It would be very unusual for the individual to have any right of appeal to an independent person or hody.

69. The main factor tending to equalise the position of employer and individual employee in their relations is the possibility of collective action hy workers, particularly where they are organised in trade unions. This naturally tends to deter an employer from ahusing his powers of discipline and dismissal and from ignoring workers' grievances, and in particular from departing widely from custom and practice.

70. It was pointed out in the first memorandum that among the main causes of disputes were "the employment or discharge of workers" and "other working arrangements, rules and discipline". These account for about two-fifths of all stoppages and about 20 per cent. of days lost through stoppages. These are of course collective disputes—i.e. cases where the interests of a number of workers are at stake or where an individual case has heen taken up hy a trade union as a collective issue. (In general the individual has, of course, no certainty that his trade union, if he has one, will he willing to take his grievance up.) In many industries these disputes may he dealt with through collectively agreed procedures. There is, however, a lack of agreement on the principles which should govern these matters—e.g. what are the circumstances in which dismissal is justified and what other arrangements can he made to minimise the disputes over such questions.

71. It is for consideration whether there is room to extend the part played by legislation in this field. The Contracts of Employment Act and the Redundancy Payments Act estahlish standards in regard to certain aspects of dismissal. Many continental countries, however, go further and provide safeguards for workers against unjustified dismissal; often, too, disputes over this and over

other grievances may be taken to a special labour court (see paragraphs 74–81). It may be that legislation is needed to lay down standards in these matters and the means of enforcing them.

72. Some progress might be made through the voluntary development of agreed procedures in industries (and where necessary within individual firms), but it would probably be uneven and slow and not affect at all the less well organised sectors of employment where many workers are not represented by trade unions.

73. The Minister of Labour's National Joint Advisory Council set up earlier this year a committee on dismissal procedures to consider points on which information should be collected, establish what would be the basis of a satisfactory procedure and consider the promotion of such procedures in industry generally. It may be that this committee's report will provide guidance on the most suitable means of making progress in this field.

(7) Labour Courts

74. There are labour courts in many countries, with the function of exercising, in regard to disputes between employers and workers, the jurisdiction otherwise exercised by the ordinary courts of law. They may be competent to deal with collective disputes only (as in Scandinavia) or individual disputes only, i.e. between an individual employer and individual worker (as in France), or with both (as in West Germany).

75. In the United Kingdom individual disputes may arise over the contract of employment between the employer and the worker or over matters not specifically mentioned in the contract or over rights conferred by statute on the worker vis-à-vis his employer or over duties imposed on the employer by the common law. Disputes over the contract of employment may involve indirectly the interpretation of collective agreements, if the terms of such agreements are implied or expressly included in the individual contract.

76. Jurisdiction over individual disputes is exercised, generally speaking, by the ordinary courts, though there is provision in the Redundancy Payments Act for tribunals to settle disputes under the Act. These tribunals will also settle disputes in regard to the written statements of their main terms of employment which the Contracts of Employment Act requires to be given to employees, and disputes about compensation under certain statutory provisions. Collective disputes procedures may handle individual disputes but as pointed out above (paragraph 70), only if these are taken up by a trade union, i.e. in effect made into collective disputes, and, of course, only if the worker concerned is a trade unionist.

77. The nucleus of a system of labour courts exists potentially in these tribunals which are to deal with disputes under the Redundancy Payments Act. They will have a considerable variety of work but clearly it would be increased many-fold if all disputes between the individual worker and his employer were to be transferred to their jurisdiction. What would be gained by such a transfer from the ordinary courts or by giving jurisdiction over disputes in connection with any future labour legislation affecting the individual, e.g. on dismissals, to labour courts? The usual answer is ease of access, quickness, informality and cheapness. There is also the fact that the composition of labour courts can be adapted to suit the work they have to do. In particular employers and workers may be included among their members. In France labour courts are composed exclusively of employers and workers. The membership of employers and workers may be a considerable advantage in a field like industrial relations where a knowledge of the background and corresponding flexibility of approach are essential in the solving of disputes. Another advantage is that the procedure

of a system of courts separate from the ordinary courts can be adapted to incorporate a conciliation procedure before the process of adjudication. This is done in France.

78. Collective agreements are not, in the United Kingdom, enforceable in the courts. Collective disputes are settled through the voluntary machinery set up by collective agreements, usually known as "procedure". A statutorily established arbitration tribunal, the Industrial Court, is available for those who wish to make use of it. If labour courts were to be given jurisdiction over collective agreements, so that disputes could be taken there at the instance of either party and the court's decisions were legally binding, this would be the same as making such agreements legally enforceable. The advantages and disadvantages of this have been discussed in paragraphs 26–35 above; as pointed out in paragraphs 34 and 35, if agreements were enforceable there would be advantages in giving jurisdiction to special labour courts rather than the ordinary courts.

79. Disputes over the application of agreements, sometimes known as "disputes of right", are appropriate for settlement by a tribunal with a judicial function like a labour court. "Disputes of interest", i.e. not over the application of an agreement but, for example, over the drawing up of an agreement, can be made subject to the supervision of a court, but the function of such a court is arbitral not judicial. If disputes of interest had to be referred to such courts, this would amount to compulsory arbitration and the question of banning strikes or finding some other sanction for enforcing acceptance of awards by workers would need to be considered. Even supposing such developments were thought desirable, it would not seem appropriate to give an arbitral function to a labour court which has the judicial function of determining disputes arising out of the terms of contracts, agreements and social legislation. An extension of labour legislation affecting the trade unions, e.g. a law on the recognition of trade unions, would raise also the question of whether such laws would best be enforced by labour courts.

80. Besides covering generally the field of disputes between employers and workers, labour courts could exercise jurisdiction over disputes between trade unions and their members, if the relations between them were to be regulated more closely by law. On the other hand, for individuals claiming National Insurance benefit who wish to dispute decisions as to entitlement there is already a special system of tribunals; disputes of this kind are in quite a different category from those mentioned above and could not appropriately be handled by a system of labour courts.

81. If there were to be a special system of labour courts its relationship to the ordinary judicial system would need to be considered and defined.

THIRD MEMORANDUM: CONCILIATION

(1) Present Law and Practice

The law of conciliation

1. The Minister's conciliation powers derive from the Conciliation Act 1896 and the Industrial Courts Act 1919. Section 2 of the Conciliation Act provides that "where a difference exists or is apprehended between an employer, or any class of employers, and workmen, or between different classes of workmen," the Minister may

"...(*b*) take such steps as may seem expedient [to him] for the purpose of enabling the parties to the difference to meet together, by themselves or their representatives, under the presidency of a chairman mutually agreed upon or nominated by the [Minister] or by some other person or body, with a view to the amicable settlement of the difference;

(*c*) on the application of employers or workmen interested, and after taking into consideration the existence and adequacy of means available for conciliation in the district or trade and the circumstances of the case, appoint a person or persons to act as conciliator or as a board of conciliation;"

Thus the Minister may take the initiative in offering conciliation or he may act on request.

2. The reference to conciliation in the Industrial Courts Act is in much more general terms, and empowers the Minister (section 2) to "take such steps as seem to him expedient for promoting a settlement" of an existing or apprehended trade dispute.

3. In the Industrial Courts Act the expression "trade dispute" is used and is defined in terms similar to those used in the Trade Disputes Act 1906. In the Conciliation Act the expression "difference" is not defined and there is thus no statutory limitation on the type of difference (between employers and workmen, or between workmen and workmen) which can be the subject of conciliation.

4. Section 2(1)(c) of the Conciliation Act requires the Minister before he appoints a conciliator to take "into consideration the existence and adequacy of the means available for conciliation in the district or trade and the circumstances of the case". Although section 2(4) of the Industrial Courts Act stipulates that the Minister shall not refer a dispute "for settlement or advice" until he is satisfied that there has been a failure to obtain a settlement through the agreed procedure of the industry, this restriction does not appear to apply to the Minister's powers under section 2(1), i.e. the general provisions about conciliation. In short, the present legislation allows the Minister to exercise his discretion in deciding at what stage in a dispute it would be appropriate for conciliation to take place.

5. Some of the provisions of the Conciliation Act no longer fit the circumstances of the present day. For example, the provision in section 1 for the registration of Conciliation Boards has fallen into disuse and the Ministry of Labour is able to obtain the necessary information about such bodies on request. The Act also appears to envisage that conciliators will be appointed *ad hoc* to deal with specific differences. For many years, however, it has been the practice to use permanent officials for this work although outside conciliators have occasionally been used. Section 2 of the Act requires that all settlements shall be formally drawn up and signed by the parties. In practice the desirability of doing this depends upon the wishes of the parties and the circumstances of the case. The Conciliation Act continues, however, to provide a satisfactory basis for the conciliation function. The flexibility of its provisions is a practical advantage.

General Government policy on conciliation

6. Government policy regarding the practice of conciliation has for many years been closely related to Government policy regarding voluntary collective bargaining. In respect of the latter it has been the policy of successive Governments to encourage the development of self-government in industrial relations through the establishment of Joint Industrial Councils, Conciliation Boards or similar joint negotiating bodies, usually on an industry-wide basis. This policy stems to a great extent from the report published in 1918 of the Committee on Relations between Employers and Employed (the Whitley Committee). Commonly the arrangements for voluntary collective bargaining which either existed at that time or have developed since then include agreed procedures for settlement of disputes within the industry concerned. The Whitley Committee in their report on Conciliation and Arbitration stated:—

> "It is important that it should be clearly understood that we do not contemplate the imposition of an elaborate system of Conciliation and Arbitration upon industry, in place of the present well-recognised voluntary conciliation and arbitration machinery which exists in so many of the important trades of the country. On the contrary, we desire to emphasise the advisability of a continuance, as far as possible, of the present system whereby industries make their own agreements and settle their differences themselves."

Government policy has generally followed this line. Notwithstanding the discretion which the legislation gives to the Minister, it has been the general policy to avoid intervening in a dispute until the agreed procedure in the industry has been exhausted. Even if in a particular instance there is no agreed procedure the parties are generally expected to try and settle the difference themselves before seeking conciliation.

7. When conciliation does take place it is in effect a continuation of the process of collective bargaining with outside assistance. The intention of conciliation is to help the parties concerned to find a mutually acceptable basis for the settlement of the difference which has arisen between them. (Failing settlement an attempt will usually be made to secure agreement to arbitration.) If possible it is also hoped to bring about a permanent improvement in the relations between the parties which will enable them more easily to settle future differences without outside assistance.

8. An essential feature of conciliation has been the independence and impartiality of the conciliator. It is on this basis that a relationship of trust has been built up between the Ministry's conciliators and employers and trade unions. In their position of neutrality the Ministry's conciliators cannot be identified with either one side or the other. Their aim is to help both sides reach a settlement for which the parties are then responsible.

9. The Minister's powers do not include any power to compel the parties to a dispute to take part in conciliation. In the past, moreover, it has generally been considered that conciliation is in its essence a voluntary process.

Organisation, staffing and procedure

10. Since the first world war the Ministry of Labour has provided a Conciliation Service staffed by officials. Over the years the Service has tended to expand and today there is a Conciliation Branch at Headquarters headed by a Chief Conciliation Officer and in each Regional Office (and Scottish Headquarters and Wales Office) there is a small staff of Industrial Relations Officers who have a dual function. They conciliate in disputes and they also provide advice to industry on personnel management matters. At one time the Conciliation Service was not a part of the regional organisation of the Ministry but it was

integrated into this organisation early in the second world war. The personnel management advisory function was until recently performed by a separate class of officers who had been recruited from industry where they had been engaged on personnel management. The process of integrating conciliation work with advisory work and the training of departmental officers in the latter duties started three years ago and the indications are that this is likely to prove beneficial.

11. There is no set procedure for conciliation laid down by statute. Sometimes Headquarters or Regional Offices will, in the course of enquiring about a dispute or a threatened dispute, indicate to the parties that conciliation services are available to them. Usually, however, this is not necessary since the availability of the service is widely known and normally conciliation takes place as a result of an approach by one or both of the parties to a dispute. The officers concerned satisfy themselves that any agreed procedure has been fully used by the parties, and only in exceptional circumstances will they consider it appropriate to conciliate when these conditions are not fulfilled.

12. The first task of the conciliator is to ascertain the facts of the dispute, usually by separate discussions with the parties. Occasionally separate talks of this kind will bring about a change in the situation as a result of which the parties are able to resume direct negotiations on their own. More commonly, however, a conciliator will invite the two sides to meet under his chairmanship. Occasionally one party may refuse this invitation but usually it is accepted. Joint meetings of this character are conducted on informal lines and their object is to enable the conciliator to explore fully the attitudes of the two sides and to find out, as a result, whether an acceptable basis can be found for bridging the gap between their two points of view. If a settlement is reached in this way the parties concerned assume full responsibility for it. The function of the conciliator has been to help them to reach this conclusion.

Differences referred to conciliation

13. The total number of differences between employers and employees which arise each year in industry is not known but it probably runs into thousands. The majority of these are settled through agreed disputes procedures and without recourse to the Ministry of Labour. The number of differences in which the Ministry of Labour has taken conciliation action each year during the last five years has varied between 300 and 400. The trend has been upward and in 1964 the number was 408. About 20–25 per cent. of these differences involved a stoppage of work. During each of the same years the total number of stoppages recorded by the Ministry of Labour was between 2,000 and 3,000. (The great majority of these were unofficial and unconstitutional and arose from local disputes.) Thus, conciliation action is taken in a comparatively small proportion of total differences and total stoppages of work. It should, however, be added that if there is deadlock in negotiations of national importance and a stoppage of work is threatened the possibility of reaching a settlement by conciliation will be considered.

14. In 1964, out of the 408 differences on which conciliation took place 290 arose from approaches by trade unions to the Department, 72 from approaches by employers, 37 from joint approaches and nine from initiatives by the Department's officers. Similar figures are not available for earlier years but probably 1964 was not very different from past years in this respect.

15. Conciliation is available to industries and services in both the public and private sectors but not in respect of differences affecting either industrial or non-industrial civil servants. In recent years some 40–50 per cent. of the differences in respect of which conciliation has taken place concerned questions of pay,

about 30 per cent. related to recognition of trade unions and 10 per cent. or more to redundancy and dismissals. Other causes included questions of working conditions other than pay, manning of jobs, trade union membership and demarcation of work. The percentage of disputes settled by conciliation has varied above and below about 60 per cent.

Contacts with industry and opportunity for preventive work

16. At both Headquarters and in the Regions, officers engaged on conciliation work endeavour to keep in close touch with leading representatives of employers and trade unions. It is desirable that these officers should be personally known to representatives of both sides of industry and in a number of industries formal contacts are maintained through the appointment of a Ministry of Labour liaison officer to the industry's Joint Industrial Council. Such appointments, which are made on request from the joint negotiating body concerned, exist in about 60 industries. The liaison officer attends meetings of the J.I.C.; he takes no active part in the proceedings but is always ready to assist by supplying any information which may be required. There would be advantage if more of these appointments could be made.

17. As a result of the close contact which exists between the Department's officers and industry, it is quite common for representatives of employers or trade unions to approach the Department informally for advice about a difference which they think may arise in the future. It is well known that this facility for informal consultation is readily available and sometimes advice given in this way has a preventive value.

(2) Current Problems and Possible Changes

The possibility of an independent conciliation agency

18. It has been suggested from time to time that the Conciliation Service should be removed from the Ministry of Labour and transferred to an independent agency as is, for example, the practice in the United States. One argument advanced is that if a dispute should arise over a claim which appears to conflict with the Government's incomes policy, and one or both of the parties to the dispute should seek conciliation from the Ministry of Labour, it is difficult for the Minister and his officers to intervene if this could lead to a settlement in conflict with Government policy.

19. Such an agency might take the form of a service staffed by officials or independent persons drawn from outside the Civil Service. Industry would then have direct dealings with such an agency. Alternatively, it could take the form of a "college" of independent conciliators to whom disputes would be referred by the Ministry of Labour.

20. In favour of such a change, it might be argued that giving conciliation this formally independent status would make it more acceptable to industry. It is difficult to say whether, under present conditions, there is any reluctance on the part of employers and trade unions to seek conciliation. The fact is that requests for conciliation continue to be received. An argument against such a change would be that the Government cannot delegate their ultimate responsibility for industrial peace, and that it is, therefore, sound for the Government to retain direct control over the Conciliation Service. There are secondary arguments of an organisational nature for keeping the Service within the Ministry of Labour. The integration of industrial relations work into the regional organisation of the Ministry and the combination of personnel advisory work with conciliation work have both brought practical benefits which would be lost if conciliation were to be transferred to a separate agency.

21. It is doubtful in any case whether the problem of possible conflict between the peacemaking function of the Ministry of Labour and the requirements of the Government's prices and incomes policy (for which the Department of Economic Affairs is primarily responsible) can be solved by an institutional change of the kind suggested. No universally applicable solution of this potential difficulty can be put forward and cases in which such a conflict arises can, it is thought, be dealt with only *ad hoc* in the light of all the prevailing circumstances.

Compulsory conciliation and the possibility of a more active conciliation policy

22. The Ministry of Labour has from time to time been criticised for not intervening more frequently in strikes. Since most strikes are unofficial and unconstitutional, conciliation has commonly been inhibited by the concern that nothing should be done which might appear to condone or even encourage breaches of agreements. Employers normally expect trade union officials to get their members back to work so that constitutional discussions can then take place and this is what union officials usually try to do. Consequently intervention by the Ministry of Labour in such circumstances might also undermine the authority of the trade union official over his members. Exceptionally, however, conciliation action is taken while such strikes are still in progress, although the Ministry of Labour never deals with unofficial strike leaders but only with authorised officers of the trade unions concerned. This action is generally justified on the grounds that the continuation of a particular stoppage would have a seriously damaging effect on the economy. As far as possible such discussions are limited to finding a basis on which work can be resumed and the original matters in dispute are left for subsequent negotiation in procedure. The question arises as to whether the Ministry of Labour should intervene more frequently in circumstances of this kind.

23. It is not often that conciliation is prevented by the refusal of one or other of the parties to take part in joint discussions. Occasionally, however, an employer does refuse to meet a union under the auspices of the Ministry of Labour, for example because the union has not been recognised or because, in the employer's view, the union is supporting unconstitutional action. It also sometimes happens that union officials, although not actually refusing to attend a joint meeting, may prove in practice not readily available and this may make it difficult to arrange a joint meeting. In general, however, the refusal or evasion of conciliation is comparatively rare.

24. The law and practice of some countries includes provisions for compulsory reporting of unresolved differences and intended strikes to the Government conciliation agency (the "cooling-off" procedure is referred to in the second memorandum, especially at para. 23) and an obligation on the parties to attend a conciliation meeting if called upon to do so. In some instances Government action may take the form of mediation (or conciliation may be followed by mediation) in which the mediator recommends a basis for settlement. Is it for consideration whether statutory provisions for conciliation in this country need to be strengthened and whether they should include any of these provisions.

25. As regards information received by the Ministry of Labour about strikes and threatened strikes present sources of information are reasonably adequate for the purposes of conciliation, although there can of course be no advance information about strikes which start without notice. Through the network of the Ministry's Local Offices, contacts with employers and trade unions and also through the press, information is received fairly promptly. Probably there are minor, short-lived strikes which do not come to the notice of the

Department. But it is douhtful whether any lack of information at present prevents conciliation action from taking place.

26. Since conciliation can only he successful if it results in persuading the parties to settle their differences hy agreement, voluntary participation is still the hest hasis from which to start. There may, however, he exceptional cases in which the exercise of compulsory powers might be justified. The existence of such powers in reserve might make it unnecessary to use them. But compulsory conciliation as generally understood does not appear to offer a solution to the problem of unofficial and unconstitutional strikes. The exercise of compulsory powers of intervention to investigate and find facts about a strike hy a procedure less formal than the Court of Inquiry or Committee of Investigation does however merit consideration. As regards mediation, which involves recommending a hasis for settlement to the parties, it would appear that this form of intervention can take place now through the existing powers of inquiry under the Conciliation Act and the Industrial Courts Act. It is douhtful whether additional powers to this end are needed.

Differences about trade union recognition

27. As already mentioned in paragraph 15, up to 30 per cent. of the differences on which conciliation takes place relate to questions of trade union recognition. The typical situation is that a union has organised a proportion of the workers at a particular firm; sometimes they have a majority and sometimes considerahly less than this. The union then approach the employer for negotiating rights on hehalf of their members. The employer in answer to the claim may say that he does not consider that the union is sufficiently representative of the workers, or that even if a claim to majority membership can he suhstantiated he does not wish to recognise them. More exceptionally, he may say that he already recognises another union and cannot, therefore, recognise a second union for the same group of people. The union seeks assistance from the Ministry of Lahour whose officers then approach the employer and, as it may appear to him, argue the union's case to him.

28. The question of trade union recognition is discussed in the second memorandum of evidence on possihle changes in the law. It is, however, appropriate to mention here that conciliation is in certain respects not a satisfactory method of attempting to settle differences between employers and unions on this subject. There may he no common ground as to the facts ahout trade union membership which can, therefore, only be ascertained hy thorough and independent investigation. Also, on a recognition issue a conciliator who is seeking a hasis for settlement cannot in practice take up a neutral position hetween the parties. He is hound to appear to the employer as an agent for the trade union. On general grounds this is undesirahle.

Inter-union differences

29. The number of demarcation or inter-union differences referred to the Ministry of Lahour is relatively small compared with other types of difference; but they frequently prove very difficult to settle. They may arise from a difference as to which craft should perform a particular joh of work, e.g. welding, pipe fitting, the fixing of plasterboard, etc.; or the difference may in effect concern the organising rights of particular unions in a particular firm or department of a firm.

30. Sometimes if conciliation fails the parties can he persuaded to refer the difference to the Trades Union Congress, which has its own disputes procedure, or to other machinery within the trade union movement for the settlement of

such differences. It would seem that this is the best way of settling inter-union problems but sometimes one or other of the unions concerned will not agree to take this step. A possibility which might be considered is whether there should be special statutory provision for dealing with these inter-union differences. The Minister of Labour might be given power to refer the questions at issue to the T.U.C. (assuming that the unions concerned are affiliated) or to some other body agreed within the trade union movement. Such a power of reference would help to enhance the authority of the T.U.C. as the proper body for settling inter-union problems but could not ensure a settlement. It might be appropriate for this reason to give the Minister of Labour a choice of procedures with a reserve power to refer a difference to an independent statutory body.

FOURTH MEMORANDUM: ARBITRATION AND INQUIRY

1. The Minister's statutory powers in relation to arbitration and inquiry in respect of industrial disputes derive mainly from the Conciliation Act 1896 and the Industrial Courts Act 1919, the provisions of which overlap to some extent. Both empower the Minister to appoint arbitrators and to conduct inquiries into industrial disputes. In respect of arbitration (though not of inquiry) the Minister in practice relies almost wholly on his powers under the Industrial Courts Act and the machinery set up under that Act.

Voluntary Arbitration

2. Section 2(2) of the Industrial Courts Act provides that the Minister may, if he thinks fit and if the parties consent, refer an existing or apprehended trade dispute for settlement by arbitration. The consent of the parties is thus essential both for the reference of the matter for settlement and to the form of arbitration to which the matter is to be referred. If any party to a dispute withholds consent, arbitration cannot proceed and the arbitration provided for under the Act is therefore entirely voluntary. The definition of "trade dispute" given in section 8 of the Act is very wide and is by no means confined to disputes involving strikes or lock-outs. Provided that the parties have each consented to arbitration, the only other requirement to which the Minister must have regard before referring a dispute to arbitration is that contained in section 2(4) of the Act, which provides that the Minister may not make such a reference unless there has been a failure to obtain a settlement by means of any agreed arrangements that exist in the industry concerned for settlement of disputes by conciliation or arbitration. The purpose of this provision is to ensure that existing negotiating arrangements in organised industry are properly used before the Minister refers the dispute to arbitration. This provision is one which is always observed by the Ministry before cases are referred to arbitration. Failure to obtain a settlement by means of the established negotiating procedures could however occur where one of the parties declined to pursue the matter through those procedures, and in such a case the provision would not debar the Minister from referring the dispute to arbitration if he thought fit.

3. The forms of arbitration to which the Minister may refer disputes for settlement, under the Act, are:—

(*a*) the Industrial Court;

(*b*) one or more persons appointed by him; and

(*c*) a board of arbitration consisting of one or more persons nominated by or on behalf of the employers concerned, and an equal number of persons nominated by or on behalf of the workers concerned, together with an independent chairman nominated by the Minister.

4. The Act requires the Minister to constitute panels of persons appearing to him suitable to act as members of a Board of Arbitration and these panels must include women. In practice, lists are maintained of independent persons and persons suitable to act as representatives of employers and workpeople respectively, and reference is made to these lists for all appointments for the purposes of arbitration or inquiry. The fact that a name is on the list is not necessarily known to the persons concerned, nor is selection restricted to those on the list.

5. There is a provision in the Act for the Minister of Labour to refer to the Industrial Court for advice any matters connected with a trade dispute or trade disputes in general or any other matter which in his opinion ought to be so referred. In practice this provision has been rarely used and not at all since 1946.

The Industrial Court

6. The Industrial Court was established in 1919 as a permanent independent tribunal for industrial arbitration. The members of the Court are appointed by the Minister. They comprise independent persons and representatives of employers and representatives of workers, and one or more must be a woman. The Act provides that the Court may sit in divisions and also that it shall be constituted by such members of the Court as the President may direct. In practice the Court always consists of one of the independent members (normally the President) and an employers' and a workers' representative. The President is Sir Roy Wilson, Q.C., whose appointment is a full-time salaried one. One of the workpeople's representatives, Dame Anne Godwin, is also a full-time salaried member of the Court, and except when she is not available, she acts as workpeople's representative, but none of the other members of the Court is at present appointed on a full-time basis.

7. The Act provides that where the members of the Court are unable to agree to the terms of their award, the matter shall be decided by the Chairman acting with the full powers of an umpire. In practice failure to agree is most exceptional.

8. The procedure of the Court is governed by statutory rules which allow the President to decide whether any case should be dealt with by a single member or by several members. They also permit representation by counsel or solicitors, with the consent of the Court, and allow the Court to call in the aid of one or more assessors. The rules further provide that, in the event of a question arising regarding the interpretation of an award, the Minister of Labour, or any of the parties concerned, may apply to the Court for a decision on the matter.

9. The cost of the Industrial Court is borne by the Exchequer. No charge is made to industry in regard to any form of arbitration under the auspices of the Ministry of Labour, but the parties have to bear the cost of presenting their case, including their travelling and subsistence expenses as well as the cost of verbatim shorthand notes if these are specially ordered by either party and not by the Chairman of the arbitration body.

10. It is within the discretion of the Industrial Court to decide whether cases shall be heard in public or in private, and whether they shall be heard in London or elsewhere. The Court has its own permanent secretariat and premises in London where it generally conducts its business, but it is able to hold its proceedings in any part of the country to suit the convenience of the parties.

11. For many years it has been the practice of the Court to express its awards in the form of decisions, with a full statement of the rival arguments but without discussion of the merits of these arguments or of the factors on which the awards are based, though brief references are occasionally made to exceptional features which have been taken into account by the Court. This practice is within the discretion of the Court and is not governed by the Act or the statutory rules of procedure. Industrial Court awards are published individually by H.M. Stationery Office.

Single Arbitrators

12. Single arbitrators are appointed by the Minister under section 2(2)(*b*) of the Industrial Courts Act. The arbitrators are persons with considerable knowledge of industrial relations but independent of either side of industry. Most of them are in practice either lawyers or university teachers and some of them are also independent members of the Industrial Court. Single arbitrators normally work without any secretarial assistance, and the selection of the place

for the bearings is entirely a matter for the parties. Sometimes bearings take place on employers' premises and sometimes tbe Department arranges premises. After tbe hearings tbe arbitrators write their awards and send them to the Ministry for transmission to the parties. It is the general, though not tbe invariable, practice of arbitrators to follow the Industrial Court in not giving the reasons for their awards. Tbe awards of single arbitrators are not publisbed, and are normally regarded by the Department as being confidential to tbe parties, unless they wisb to publicise them.

13. In referring disputes for arbitration by a single arbitrator, rather than by the Industrial Court, the Minister is normally acting at the request of the parties. It is often possible to arrange for a hearing by a single arbitrator rather more quickly than may be the case at the Industrial Court. Also the fact that the proceedings are quite informal and that the award is not published are reasons why parties sometimes favour this metbod of arbitration. The majority of hearings by single arbitrators take place outside London, and the fact that arbitrators can generally be found to take cases in the locality where the dispute occurs is another factor whicb encourages parties to seek this form of arbitration. As a generalisation, the cases beard by single arbitrators are usually of somewbat less importance than tbose beard by the Industrial Court though tbey may nevertheless be quite complex.

Boards of Arbitration

14. Boards of Arbitration are set up by the Minister under section 2(2)(*c*) of the Industrial Courts Act, and tbis form of arbitration too is normally provided in response to the request of the parties. The Chairman of a Board of Arbitration is an independent person appointed by the Minister. Tbe otber members of a Board of Arbitration are a person (exceptionally two) representing employers, and an equal number representing workers. The representative members may be nominated either by the Minister on behalf of the parties, wbose concurrence is sought before the Board is constituted, or by the parties tbemselves, in whicb case they pay tbe fees and expenses of their nominees. When Boards of Arbitration are requested, the parties are required to agree in advance tbat, should the Board be unable to reacb a unanimous decision, the Chairman sball be authorised to make the award acting with tbe full powers of an umpire.

15. Boards of Arbitration are normally appointed only for settling important disputes. Sometimes the parties favour this form of arbitration because they are anxious to choose their representatives. Wben tbe Minister nominates tbe employers' and workers' representatives, be takes care not to select persons connected with the industry concerned or involved in current disputes of a similar kind in other industries. The Department normally provides a secretary for Boards of Arbitration and makes all arrangements for the hearings. The awards of Boards of Arbitration are not normally published although tbe parties sometimes give publicity to tbe findings. As in the case of other forms of voluntary arbitration reasons for awards are not normally given, but this practice is not universal.

16. From tbe statutory point of view the Civil Service Arbitration Tribunal which covers the non-industrial Civil Service is a Board of Arbitration, but the arrangements under which it operates are regulated by tbe Civil Service Arbitration Agreement. As an exception to the normal practice with Boards of Arbitration, its awards are publisbed. Its members are appointed by tbe Minister of Labour, and its secretariat is provided by the Ministry.

17. Under the Remuneration of Teachers Act 1965 arrangements bave been made by the Secretary of State for Education and Science for an arbitral body,

similar to a Board of Arbitration, to be set up by the Minister of Labour to determine matters in respect of which there has been failure to agree on the committees set up to consider teachers' remuneration. The arrangements provide for the Chairman of tbe Arbitral Body to be appointed by the Minister after consulting tbe two panels of the Committee concerned, and for the other members to be selected by the Minister from lists of persons considered suitable by the Management and Teachers' Panels respectively. This form of arbitration has now been used for tbe first time and has determined tbe remuneration of teachers in primary and secondary schools.

18. The awards resulting from voluntary arbitration are not legally binding on tbe parties concerned. Since, however, they result from a joint desire for settlement by arbitration, tbe question of enforcement does not generally arise. Although awards are not legally enforceable, once they are accepted or acted upon they form a part of tbe contract of employment.

Arbitration under Voluntary Joint Agreements

19. The statutory provisions which enable the Minister of Labour to make arrangements for voluntary arbitration are only a part of the extensive and widely differing provisions for settling disputes which have grown up as collective bargaining has developed. The growtb of joint voluntary machinery, and particularly of joint industrial councils, bas led most industries to make provision for the settlement of issues in dispute and this may provide for arbitration arrangements. This takes many forms, ranging from self-contained arbitration machinery sucb as exists on tbe railways or in the coal industry to arrangements that, in tbe event of disagreement between two sides of a joint negotiating body, the cbairman may act in tbe capacity of arbitrator. In the case of the railways and of coal mining, the machinery for dealing with disputes at various levels provides for arbitration as a last resort, in the one case from the Railway Staff National Tribunal and in the other from the National Reference Tribunal. In some cases tbese voluntary provisions for arbitration provide that if one of the parties to a dispute requests arbitration tbe other party shall not withbold consent. In otber cases there must be joint agreement before there is recourse to arbitration. In many cases agreements of this type provide for the Minister of Labour's assistance to be sought in selecting and appointing arbitrators or referring disputes to tbe Industrial Court.

Compulsory Arbitration

20. There is at present no provision for compulsory arbitration as such in the United Kingdom. In the past such arbitration has existed only during and immediately after the two wars and bas been regarded as acceptable only in the particular circumstances of a war-time or post-war economy. Compulsory arbitration in the strict sense means that arbitration becomes a compulsory means of settling disputes. In this sense, it is an alternative to strike action and in return for the provision of compulsory arbitration machinery, strikes are prohibited. This was the position between 1940 and 1951 under the provisions of the Conditions of Employment and National Arbitration Order (S.R.O. 1305). Under tbis Order a National Arbitration Tribunal was constituted to whicb disputes were referred by the Minister at the request of either party and strikes and lock-outs were prohibited unless tbe Minister bad failed to act within 21 days. Employers in each district were also obliged to observe terms and conditions settled by collective agreement or by arbitration for the trade concerned in the district.

21. With the ending of the war and its immediate aftermath, the system was changed and under the Industrial Disputes Order 1951 a modified form of compulsory arbitration was retained, which is better described as unilateral became arbitration. Under the provisions of this Order the National Arbitration Tribunal the Industrial Disputes Tribunal. Arbitration was compulsory only in the sense that either party could take a dispute to the Minister for reference to the Tribunal without the consent of the other party and that any award of the Tribunal was legally binding upon both parties. The exercise of the right to report disputes was however purely voluntary. This form of arbitration ended in 1959.

22. The T.U.C. has recently asked the Minister of Labour to restore the position as it was under the Industrial Disputes Order on the grounds that it would present an opportunity for trade unions to seek redress in sectors of employment where they were sometimes not recognised and where the strike weapon was not used; and that it would provide a means of obtaining a decision without a jointly agreed reference, for example in cases where negotiation had failed and where an employer was reluctant to proceed further. The Minister is at present considering the representations of the T.U.C. on this matter.

Recognised Terms and Conditions of Employment

23. Closely allied to the subject of arbitration is the question of enforcing recognised terms and conditions of employment. During the second war, as stated in paragraph 20, the Conditions of Employment and National Arbitration Order required employers in each district to observe terms and conditions settled for the trade concerned in the district, and this provision was continued until 1959. After that year, with the disappearance of the machinery for compulsory arbitration, section 8 of the Terms and Conditions of Employment Act 1959 gave representative organisations of employers or workers statutory rights to invoke, through the Minister, the adjudication of the Industrial Court in cases where it appeared to the organisation that an employer was not observing the terms and conditions of employment which had been established by agreement or award for the industry in which he was engaged. Under these arrangements a claim can be reported by a party to the agreement or award without the consent of the party against whom the claim is made. If the Industrial Court finds that the claim is well founded, it makes an award requiring the employer to observe the recognised terms and conditions, which has effect as an implied term of the contract of employment from a date specified by the Court. In practice, the majority of claims reported to the Minister are either settled before reference to the Court or withdrawn before the hearing.

24. A somewhat similar use of the Industrial Court is provided for in Part II of the Road Haulage Wages Act 1938 which empowers certain road haulage workers or their trade unions to apply to the Minister of Labour if the workers' remuneration is considered unfair, and provides that the Minister shall refer the matter to the Court for settlement if it cannot be otherwise settled. The Civil Aviation Act 1949 contains a provision that any question whether terms and conditions of employment, not otherwise regulated as specified under the Act, of persons employed by independent undertakings ought to be no less favourable than those observed by the airways corporations shall, if not otherwise disposed of, be referred to the Industrial Court by the Minister of Aviation.

The "Fair Wages" Principle

25. For many years past the principle has been accepted that terms and conditions of employment of employees of Government contractors should be no less favourable than those established for the particular trade or industry in

the district concerned or (if there are no established standards) than the general level of terms and conditions observed by other employers whose general circumstances in the trade or industry are similar. The application of the fair wages principle to Government contractors has been secured by a succession of "Fair Wages Resolutions" of the House of Commons, the first dating from 1891 and the current one passed in 1946. The current Resolution also provides that a Government contractor must recognise the freedom of his workers to join trade unions and has to be responsible for the observance of the Resolution by his sub-contractors. Any question as to whether the requirements of the Resolution are being observed is to be reported to the Minister of Labour, and if not disposed of otherwise, is to be referred to arbitration. It is normal for the Minister to refer such cases to the Industrial Court.

26. The Government have recommended to the local authorities that they should adopt the policy followed for Government contractors and this is now the general though not universal practice. Nationalised industries also, as a general practice, insert a clause based on the Fair Wages Resolution in their contracts.

27. The principle of the Resolution has also been incorporated in a number of Acts (which are listed in Appendix II) which provide assistance to industries or public authorities by way of grant, loan, subsidy, guarantee or licence. In addition, it has been the practice of successive Governments to apply the principles underlying the Fair Wages Resolutions in determining the remuneration of its industrial employees.

28. An analysis of cases dealt with by the various arbitration bodies and arbitrators to whom the Minister refers cases is given in Appendix 1.

Inquiry

29. The Minister is empowered, both under the Conciliation Act and the Industrial Courts Act, to inquire into industrial disputes and the consent of the parties is not necessary before such inquiries are made or appointed. The most formal type of inquiry is the Court of Inquiry under sections 4 and 5 of the Industrial Courts Act.

Courts of Inquiry

30. Courts of Inquiry are primarily a means of informing Parliament and the public of the facts and underlying causes of dispute. A Court is generally appointed only as a last resort when no agreed settlement of a dispute seems possible, and when an unbiased and independent examination of the facts is considered to be in the public interest. The power to set up a Court of Inquiry is used sparingly and is reserved for matters of major importance affecting the public interest. A list of Courts of Inquiries set up since 1958 is given in Appendix III and a list of all previous Courts of Inquiry is contained in Appendix VI of the Industrial Relations Handbook.

31. A Court of Inquiry may consist of one or more persons, selected and appointed by the Minister. The chairman is always an independent person, but the other members of the Court may be persons representing in equal numbers employers and workers outside the industry concerned. The usual number is three, consisting of an independent chairman and one representative of employers and workers respectively. No rules of procedure have been laid down by regulation, but in the minute of appointment setting up a Court of Inquiry the Minister directs that certain rules shall have effect. One of these rules is that persons with knowledge of the subject-matter of the inquiry may be requested to furnish information and, where necessary, to attend the Court

and give evidence on oath, but use is rarely made of this rule. The proceedings of a Court of Inquiry are, as a general rule, held in public but this is a matter within the discretion of the Court itself. It is also within the discretion of the Court to permit representation by counsel or solicitors, and to sit with assessors, if necessary.

32. It is not the function of a Court of Inquiry to act as an instrument of conciliation or arbitration, and it has no power to enforce a settlement or make an award, but Courts may, and generally do, make recommendations upon which a reasonable settlement of the dispute can be based. As a rule, the report of a Court of Inquiry will not only deal exhaustively with the causes and circumstances of the dispute but will also, in the framework of its conclusions and recommendations, comment freely on the arguments and actions of the disputants. Neither party to the dispute is bound to put into operation any recommendations which a Court may make. Experience has shown, however, that an informed and impartial public examination of the facts and circumstances has considerable value in providing a basis for further negotiations and thus leading to a settlement.

33. The Act requires that any report of a Court of Inquiry shall be laid as soon as may be before both Houses of Parliament.

Committees of Investigation

34. Apart from Courts of Inquiry under the Industrial Courts Act the Minister also has powers under the Conciliation Act 1896 to inquire into the causes and circumstances of a dispute. For the exercise of this power the Minister may appoint a single independent person sitting alone or a small committee (usually termed "Committee of Investigation") constituted on the same lines as a Court of Inquiry. A Committee constituted in this way is normally used in cases where the public interest is not so wide and general as to call for a Court of Inquiry. Its procedure is therefore less formal, and its report is not laid before Parliament. Just as in the case of a Court of Inquiry, however, the report made by the Committee to the Minister may lead to an agreed settlement of the dispute. A note of the Committees of Investigation set up in the last few years is given in Appendix III.

Inquiries under General Powers

35. In addition to inquiries set up by the Minister under his statutory powers, he may also set up inquiries under what are known as his general powers, i.e. those which he enjoys by virtue of his Ministerial position. Such inquiries have been appointed occasionally since the war and a number have been held in recent years. Details are given in Appendix III. In most of these cases an inquiry could have been appointed under the existing Acts, but an inquiry under general powers was preferred for various reasons. One reason is that in appointing such an inquiry the Minister may act jointly with another Minister (who can also act under his general powers). The Committee of Inquiry into the Pay of London Busmen and the Committee of Inquiry into London Markets are cases where an inquiry was appointed jointly by the Minister of Labour and another Minister. Another reason why an inquiry under general powers may sometimes be preferred to a statutory inquiry is that the terms of reference may be rather wider. Under the Acts the Minister's powers are confined to inquiries into disputes, and it may be desirable to inquire into matters which may not currently be in dispute between the parties. The Committee of Inquiry under Lord Devlin which recently reported on labour problems in the port transport industry is an example of an inquiry which examined long-term labour problems in addition to a current dispute. Again,

the terms of reference of an inquiry under general powers may specifically include some aspect of the national interest as in the case of the Committee of Inquiry into the Pay of London Busmen.

Prices and Incomes Policy: the National Board for Prices and Incomes

36. An account of the machinery for arbitration and inquiry would not be complete without reference to the National Board for Prices and Incomes set up as a result of the prices and incomes policy agreed between the Government and industry during the period December 1964 to March 1965. Cmnd. 2577 describes the machinery of prices and incomes policy including the National Board, while Cmnd. 2639 sets out the considerations which in the national interest should guide all concerned with prices and incomes. The National Board is not in form or in intention an arbitration body, but since it may be requested by the Government to report on pay claims and settlements there are nevertheless certain resemblances. A report by the National Board may well come to be regarded by the parties as tantamount to the award of an arbitration body or of a Court of Inquiry. The Government have now decided to reconstitute the National Board for Prices and Incomes on a statutory basis and legislation for this purpose is to be introduced shortly. At present the Board operates as a Royal Commission.

Current Problems in relation to Arbitration

Compulsory Arbitration

37. For nearly 20 years, during and after the war, the traditional arrangements for voluntary arbitration in disputes were accompanied by either compulsory arbitration in the full sense or by unilateral arbitration. In the last six years, however, reliance has been placed solely on the voluntary method. The question arises whether this is still appropriate. The setting up of the National Board and the developments in connection with prices and incomes policy are relevant to this.

38. A voluntary system has great advantages but it does not guarantee that arbitration will necessarily be used in circumstances where it would be the best way of settling a dispute. It is therefore arguable that arrangements which made arbitration obligatory would reduce the number of strikes. Compulsory arbitration in the full sense, however, implies a legal prohibition of strikes, and no one has seriously suggested that this would be appropriate to present day conditions. What has been suggested is that something along the lines of the Industrial Disputes Order 1951 might with advantage be reintroduced. As mentioned in paragraph 21, the T.U.C. have put this suggestion to the Minister.

39. The advantage claimed for this is that it would ensure that settlements were reached in disputes where one of the parties was reluctant to submit to independent judgement. On the other hand, it can be argued that the chief effect of a provision of this kind would be in sectors where trade union organisation was weak and industrial action unlikely, and that it would have little effect where trade union organisation was stronger. The 1951 Order was, in fact, criticised by employers as being in practice one-sided.

40. The question arises whether some form of unilateral arbitration might be useful in relation to prices and incomes policy. It is too early at this stage to be dogmatic about this. If, however, it were eventually decided to introduce unilateral arbitration some difficult issues would have to be decided. It might entail setting up a special arbitral body which would be superimposed on the voluntary arbitration arrangements and the National Board for Prices and Incomes. The precise relationship between these bodies would have to be laid down and the functions and powers—including sanctions—of the new machinery

specified. It would also be necessary to determine in what circumstances and on what conditions parties to a dispute should have access to the special Tribunal.

Arbitrators and the National Interest

41. Hitherto the primary purpose of arbitration has been to secure a settlement of disputes taking into account the arguments put forward by the parties. Arbitration has, in fact, been a continuation of the collective bargaining process that has provided an alternative to agreement as a means of reaching finality.

42. Thus the interests which have in the past determined the awards of arbitrators have been primarily, though not solely, those of the parties to the issue before them. In order that those concerned with arbitration should not be unaware of the economic background against which they were asked to make awards, it has for some years been the custom to keep them supplied with wages and earnings statistics, e.g. those published in the Ministry of Labour Gazette and in the quarterly Bulletin of Statistics, and to send them relevant statements of the economic situation or of Government policy in relation to it. For example, under these arrangements the White Papers on prices and incomes policy have been sent to all arbitrators. In supplying this material there has been no attempt to prescribe the limits within which arbtirators should work or to suggest to them any particular way in which their awards should reflect current national policy.

43. In circumstances where the Government and industry are committed to a prices and incomes policy as part of a long term economic plan and in which there has been laid down by agreement a "norm" for increases in incomes, it is necessary to consider whether the foregoing arrangements are fully adequate, and how far they can or ought to be associated more closely with the policy and with the institutional arrangements set up under it, particularly the National Board for Prices and Incomes.

44. In essence, the problem is how to ensure that the normal processes of arbitration can be reconciled with the national interest. Recent developments in prices and incomes policy will be described in a memorandum of evidence which will be submitted by the Department of Economic Affairs and the future of arbitration machinery will be dealt with *inter alia* in that paper.

Current Problems in relation to Inquiries

45. The Conciliation Act and the Industrial Courts Act both empower the Minister to inquire into industrial disputes, but the underlying purpose of appointing such inquiries has been generally to bring about a resumption of normal working (if this has been interrupted) and to enable a settlement to be reached. The Minister's powers are perfectly adequate for this type of inquiry and no extension of them would be necessary if his role were to continue to be no more than the traditional one of industrial peacemaker. That role, of course, will continue to be of the greatest importance and there will consequently always be occasions when the " traditional " type of inquiry will be necessary. (See also para. 153 of the first memorandum as regards the possibility of fact-finding teams.)

46. However, since the war, and particularly in the last few years, it has been increasingly recognised that the Government has an interest, not merely in ensuring that particular groups of employers and workers manage to settle their differences as best they can, but also in ensuring that situations where persistent labour problems exist should be remedied, in the interests both of efficiency and of better relations generally. It has to some extent been in response to this

development that certain inquiries set up by the Minister of Labour in recent years have not been confined to particular disputes, but have also looked at other matters affecting labour in the industries concerned. For the reasons given in paragrapb 35 above, these inquiries bave usually been set up under the Minister's general powers. Two recent examples of inquiries wbicb bave not been confined to particular disputes are provided by the Committee under Professor Pbelps Brown whicb examined tbe pay of London busmen in 1963–4, and the recent Committee under Lord Devlin, which examined labour relations in tbe port transport industry.

47. There is likely to be a continuing need to set up inquiries of this sort and the main questions whicb arise are:

(1) what sort of inquiries are needed; and

(2) what statutory powers, if any, are needed to enable these inquiries to be carried out.

48. It is clear that inquiries which are to make recommendations for major cbanges in working practices and organisation cannot adopt the traditional method of working of Courts of Inquiry, whicb are set up to deal with crisis situations. Inquiries of this sort generally arrange to hear the parties as soon as possible, complete the bearings in two to four days, allow some days for consideration of their conclusions and the preparation of their report and present it to tbe Minister as soon as possible for urgent publication. This method of working is clearly unlikely to achieve worthwhile results if inquiries of a more fundamental nature are to be made.

49. It is therefore necessary to envisage the possibility that there may be an increasing number of inquiries for which the traditional methods will not be appropriate. Such inquiries are likely to be wide-ranging and to occupy a good deal of time because labour problems cannot simply be divorced from problems relating to the organisation of work for purposes of production. They are also likely to increase the importance of having amongst those conducting tbe inquiry persons with expertise in management and work organisation generally. Finding suitable persons with the necessary background and sufficient time to devote to inquiries of this kind may present problems.

50. With regard to statutory powers, it would appear from recent examples that it is perfectly possible for wide-ranging inquiries into the efficiency of particular industries to be conducted without recourse to statutory powers, provided that there is some degree of co-operation from the parties. Where sucb co-operation is not forthcoming, the task of an inquiry of this sort would obviously be much greater but it does not follow that it would be impossible or that it would necessarily be easier if the inquiry had compulsory powers. It is unlikely that both the employers and unions would be equally firm in declining to give evidence to an inquiry, and if one of the parties gave evidence, it migbt be very difficult for the other party to continue to decline to do so, without exposing itself to damaging criticisms.

51. Nevertheless, it might be realistic to assume that certain inquiries migbt not succeed in securing the co-operation of the parties, despite such pressure as might be brougbt through adverse publicity. It does not follow, however, that in such cases the use of compulsory powers by an inquiry will in fact produce any useful results. It is conceivable that, in such cases, individuals would be prepared to incur such penalties as might be imposed for non-appearance and the Government might well be reluctant to invoke these penalties. Even if individuals were compelled to give evidence to an inquiry, it would be difficult to obtain mucb of value from a witness who was determined not to express an opinion and to be as unhelpful as possible.

52. Apart from tbe question of giving inquiries compulsory powers, there remains the question of whether the Minister should seek statutory autbority for setting up the sort of inquiries which he has recently appointed under general powers. If such inquiries are to become more frequent, there may be some case on general grounds for the Minister to seek specific statutory autbority for bis actions.

53. In the section of this memorandum dealing with arbitration, the question was raised of the relationsbip between arbitration and the national interest as exemplified by the Government's prices and incomes policy. This question arises also in relation to inquiries and in particular to inquiries of the "traditional" type which deal with industrial disputes and commonly make recommendations in their reports with a view to facilitating a settlement. In the case of inquiries it would be possible to require in a minute of appointment or the terms of reference that any recommendations in tbe report should be related to the national interest. But it might be difficult to make this a general rule whilst arbitrators were not subject to a similar limitation. In a situation in which arbitration continued as at present and in which the awards of arbitrators were liable to be referred to the National Board for Prices and Incomes, the logical step would be to regard agreements based upon recommendations of inquiries as similarly liable to review by the Board.

APPENDIX I

ARBITRATION IN INDUSTRIAL DISPUTES: NUMBERS OF CASES HEARD

These figures show year by year the number of cases heard by the Industrial Court (excluding hearings in connection with interpretation of awards) and by other arbitration bodies and arbitrators to whom cases have been referred by the Minister of Labour.*

Industrial Court	1960	1961	1962	1963	1964	1965 up to 30.6.65	Total
Industrial Courts Act 1919	35	51	37	39	41	9	212
Terms and Conditions of Employment Act 1959	15	20	16	11	8	8	78
Road Haulage Wages Act 1938 ..	4	—	3	—	2	—	9
Fair Wages Resolution of the House of Commons 1946	3	3	1	—	2	1	10
Civil Aviation Act 1949	—	—	—	—	1	—	1
Totals	57	74	57	50	54	18	310
Civil Service Arbitration Tribunal ..	22	15	17	19	8	4	85
Boards of Arbitration	4	3	4	1	—	5	17
Single Arbitrators (including independent chairmen empowered to act as arbitrators)	27	19	23	32	24	19	144
Totals	53	37	44	52	32	28	246
Totals, all arbitrations	110	111	101	102	86	46	556

* Minister of Aviation in one case under Civil Aviation Act 1949.

APPENDIX II

STATUTES CONTAINING PROVISIONS CONCERNING TERMS AND CONDITIONS OF EMPLOYMENT

Road Haulage Wages Act 1938
Holidays with Pay Act 1938
Restoration of Pre-War Trade Practices Acts 1942 and 1950
War Damage Act 1943
Coal Industry Nationalisation Act 1946
Transport Acts 1947 and 1963
Electricity Act 1947
Gas Act 1948
Civil Aviation Act 1949
Air Corporations Act 1949
National Health Service (Amendment) Act 1949
Housing (Scotland) Act 1950
Television Act 1954
Atomic Energy Authority Act 1954
Sugar Act 1956
Housing Act 1957
Civil Aviation (Licensing) Act 1960
Road Traffic Act 1960
Films Act 1960

APPENDIX III

COURTS OF INQUIRY ETC.: NUMBERS AND DETAILS OF RECENT CASES

	1960	1961	1962	1963	1964	1965 up to 30.6.65	Total
Courts of Inquiry (I/Courts Act 1919) ..	Nil	Nil	Nil	1	1	1	3
Committees of Investigation and Inquiry etc. (Conciliation Act 1896)	1	—	—	—	2	2	5
Minister's General Powers	1	—	—	2	2	—	5
Totals	2	—	—	3	5	3	13

Courts of Inquiry

1960-1962 Nil.

1963 Into causes and circumstances of a dispute between Ford Motor Co. Ltd. and members of trade unions represented on the Trade Union Side of the Ford National Joint Negotiating Committee.

1964 Into causes and circumstances of a dispute between the parties represented on the National Joint Industrial Council for the Electricity Supply Industry.

1965 up to 30.6.65 Into a dispute between employers who are members of the Shipbuilding Employers' Federation and workmen who are members of the Draughtsmen's and Allied Technicians' Association.

1960

Conciliation Act 1896

1. Committee of Investigation to inquire into the difference existing between Employers' and Workers' Sides of the Electrical Contracting Industry National Joint Industrial Council concerning the terms and conditions of employment of members of the Electrical Trades Union employed by F. H. Wheeler and Co. Ltd. at Shell Centre Site, South Bank, S.E.1.

Minister's General Powers

2. Committee appointed by the Minister of Labour to consider the difficulties which have arisen in the Port of London (Ocean Shipowners' Tally Clerks).

1961-1962

Nil.

1963

Minister's General Powers

3. Inquiry by the Hon. Lord Cameron, Q.C., into the complaint made by the National Union of Bank Employees on 12th March 1962 to the Committee on Freedom of Association of the International Labour Organisation.

4. Committee of Inquiry to review the Pay and Conditions of Employment of the Drivers and Conductors of the London Transport Board's Road Services.

1964

Conciliation Act 1896

5. Committee of Investigation into the difference existing in the Yorkshire Area of the Coalmining Industry involving members of the Yorkshire Winding Enginemen's Association and members of the National Union of Mineworkers employed by the National Coal Board, and the National Coal Board.

6. Inquiry by Mr. A. D. Flanders into the causes and circumstances of a difference over the appointment of Dock Foremen at Southampton Docks.

Minister's General Powers

7. Committee of Inquiry into the dispute at the Spitalfields, Borough, Stratford, Brentford and King's Cross Markets.

8. Committee of Inquiry into certain matters concerning the Port Transport Industry.

1965

Conciliation Act 1896

9. Committee of Inquiry into causes and circumstances of the difference existing between the two sides of the National Council for the Omnibus Industry.

10. Inquiry into the causes and circumstances of a difference between the National Coal Board and the National Association of Colliery Overmen, Deputies and Shotfirers.

FIFTH MEMORANDUM:

OTHER FUNCTIONS OF THE MINISTRY OF LABOUR

Section 1—Wages Councils

1. Wages Councils are statutory bodies continued or established under the Wages Councils Act 1959—an Act which consolidated earlier legislation providing for statutory wage regulating machinery in a number of trades and industries. The function of a Wages Council is to prepare and submit to the Minister of Labour proposals for fixing statutory minimum remuneration (including holidays and holiday remuneration) to be paid to workers in relation to whom the Council operates. Such proposals, when made effective by the Minister in a Wages Regulation Order, must be observed by all employers of the workers concerned and are enforceable at law.

Background

2. The first direct intervention of recent times by the State in the fixing of minimum wages occurred in 1909 when the first Trade Boards Act was passed. This was a largely experimental measure and applied to four trades only, namely ready-made tailoring, paper box making, chain making and machine-made lace and net finishing, where current wages were considered to be below subsistence level. Public opinion, aroused in particular by the Sweated Industries Exhibition in 1906, had finally become alive to the social evils resulting from low wages, long hours and bad conditions of work in certain industries and these four trades were selected by the Government of the day as outstanding examples of the prevalence of sweated labour.

3. Trade Boards established under this early legislation had the strictly limited function of fixing minimum time rates of wages and a wages inspectorate was set up to enforce compliance with the determinations of the Boards.

4. Enough experience of the working of the Boards was soon obtained to show that in the conditions then obtaining the experiment was on the right lines and in 1917 the Whitley Committee reported in favour of the scope of Trade Boards being extended to cover, in addition to industries in which low wages were prevalent, those industries in which there was a lack of organisation, particularly on the side of the workers, resulting in an absence of collective bargaining arrangements. This new principle was embodied in the second Trade Boards Act which was passed in 1918, under which the Minister of Labour was authorised to establish a Trade Board for any trade if he was of opinion that no adequate machinery existed for the regulation of wages in the trade in question and that in view of the rates of wages prevailing in the trade, it was expedient that the principal Act should apply to it. As a result of the passing of this second Act a large number of Trade Boards were set up in the ensuing inter-war years and by the end of 1938 there were some 50 Trade Boards in existence covering about one and a half million workers. Mention should also be made at this point of the two Agricultural Wages Boards set up, one in 1924 for England and Wales, and the other in 1937 for Scotland, covering workers employed in agriculture. A separate memorandum dealing with these arrangements is being prepared by the Departments concerned.

5. Subsequent legislation has further extended the scope of Wages Councils and their present powers cover the submission of proposals for piece-work basis time rates as well as general minimum rates, overtime rates, holidays and holiday remuneration and guaranteed minimum weekly remuneration.

Present Position

6. At the present moment there are 57 Wages Councils (listed in Appendix I to this Section) which cover about 3½ million workers employed in about half a million establishments. Each Council consists of members, in equal numbers, representing employers and workers respectively in the trade or industry concerned, together with not more than three persons known as independent members, one of whom is appointed by the Minister as Chairman. The representative memhers are selected with a view to giving representation as far as possible to the different types of establishments, the principal districts of employment and the different classes of workers in the industry in question. Before appointing representative members the Minister is required to consult organisations representing respectively the employers and workers concerned. The number of representative members varies from five or six a side for some of the smaller Councils to twenty to twenty-four a side in the largest Councils. Persons selected by the Minister as independent members are not associated with employers or workers in any industry. They are mainly drawn from among University teachers, and members of the legal profession.

7. It will be seen from the list in Appendix I that most of the Councils fall into one or other of about half a dozen broad groups, mainly retail distribution, the catering trades, the clothing industry and the small metal trades. Each Council negotiates its rates separately, though negotiations in each group tend to follow a similar pattern.

Powers and Procedures

8. Each Wages Council has power to suhmit to the Minister proposals:

(*a*) for fixing the minimum remuneration to be paid, either generally or for any particular work, by their employers to all or any of the workers in relation to whom the Council operates; and

(*b*) for fixing holidays and holiday remuneration for all or any such workers.

9. Before making proposals to the Minister each Council is required to puhlish them so that persons affected may have an opportunity to make representations about them. The Council concerned is required to consider any such representations and may amend its proposals in the light of them hefore they are submitted to the Minister for the making of an Order to give them legal effect. The Minister has no power to amend or reject proposals put to him by a Wages Council and is required to make an Order giving them legal effect unless he considers it necessary to refer them back to the Council for reconsideration. If, having reconsidered them on a reference hack, the Council decides to send them back unchanged, the Minister has no alternative hut to make a Wages Regulation Order giving the proposals legal effect.

10. The statutory procedures for the publication of proposals and the submission and consideration of representations, together with the necessary printing requirements at the different stages, result in an average interval of about three months elapsing hetween the settlement meeting of a Council (i.e. when a decision is reached) and the operative date of any Wages Regulation Order giving legal effect to the Council's proposals.

Enforcement

11. The remuneration paid to workers within scope of a Wages Council must be not less than the minimum fixed hy the relevant Wages Regulation Order. All employers concerned are required to maintain proper records to show that the appropriate statutory minimum remuneration (including holiday

remuneration) is being paid and wages inspectors are appointed by the Minister whose duty it is to ensure that the legal requirements of the Act are satisfied. Establishments are inspected at intervals on a routine basis and complaints from workers who think they are not receiving the statutory minimum remuneration due to them are also investigated by the wages inspectorate. Where an offence appears to have been committed, legal proceedings may be taken, whether a complaint has been received or not. Civil proceedings may also be instituted by or on behalf of a worker for the recovery of arrears of remuneration. Appendix II to this Section gives statistics on inspection and enforcement and on legal proceedings instituted by the Ministry, comparing the present results with 1938.

12. It is believed that many men and a smaller proportion of women workers in scope of the Councils are receiving more than the statutory minimum rates, but no reliable information is available in the Ministry of Labour to show to what extent the statutory rates are in fact supplemented as a result of collective or individual bargaining. In general, little effective voluntary machinery exists in industries covered by Wages Councils and the most important factors in raising rates above the statutory minima at the present time are the state of the local labour market and the rates being offered by employers in other industries in the locality. Figures of average earnings (which in any event would provide an uncertain standard of comparison for this purpose since they cover all classes of manual workers and include overtime payments) are not compiled for the catering and retail distributive trades, which account for the majority of workers covered by Wages Councils.

Abolition of Councils

13. The Wages Councils Act 1959 provides for the abolition of Wages Councils or variation of their field of operation and the detailed procedure is set out in Appendix III to this Section. It will be seen that action can be initiated by the Minister himself or can result from a joint application from employers' and workers' organisations substantially representative of the industry concerned. In either case the essential conditions for abolition are that adequate machinery for the effective regulation of pay and conditions of work should exist and that the machinery should be substantially representative of both sides of the industry.

14. The tests of adequacy laid down in the Act are, first, the effectiveness of the machinery in producing agreements and, second, the extent to which the agreements are observed in practice. Unless these two conditions are satisfied a Council cannot be abolished no matter how strongly one side or the other may press for it. Since the end of the war ten Wages Councils have been abolished. In addition, the field of operation of a number of Councils has been narrowed to exclude certain categories of workers for whom adequate alternative arrangements have been developed by the establishment of voluntary collective bargaining machinery.

Conclusion

15. The system of statutory wage regulation was set up in 1909 to protect unorganised workers from exploitation and it may be said to have succeeded in eradicating the evils of sweated labour and the competitive undercutting of wages. It had been expected, however, that the system would at the same time provide a suitable training ground for employers and workers in the processes of wage negotiation and would thus facilitate the setting up of voluntary collective bargaining arrangements which would gradually supersede the

Councils and finally lead to their abolition. This expectation has not been fulfilled and while a small number of Councils have been abolished, employers and workers alike have for the most part been content to rely on the statutory machinery provided by the Government, backed up by an efficient and vigilant wages inspectorate. Successive Governments have in appropriate cases continued to urge the two sides of the industries concerned to take over the running of their own affairs and have encouraged them to improve and strengthen their organisation and to set up adequate voluntary negotiating machinery so that the statutory arrangements may be discontinued. But while some progress has been made the pace has been disappointingly slow.

16. As stated in paragraph 13 above abolition is not practicable under the existing law unless adequate alternative negotiating machinery already exists and can be shown to be working effectively not merely as a means of negotiation but also as an enforcement body. It may be considered that the present statutory provisions err on the side of excessive caution and that quicker and more effective results, including the desirable results of stronger organisation on both the employers' and workers' sides, would be brought about by an amendment to the Wages Councils Act empowering the Minister to abolish any Wages Council where he was satisfied, on the application of a trade union which was representative of a substantial proportion of the workers concerned, that the wages and conditions of the workpeople would not be adversely affected if the Council ceased to exist.

17. Undoubtedly an important reason why the number of Councils abolished has remained so small is that in many industries neither employers nor workers wish to lose the services of the wages inspectorate in enforcing wage rates. An alternative way, therefore, of encouraging the development of voluntary in place of statutory machinery might be for the Minister to be empowered to continue for a limited period to use the inspectorate, after the abolition of a Council, for enforcement of the statutory rates last negotiated between the two sides of the industry concerned prior to abolition. If this could be done, it would be open to a Wages Council on the point of abolition to make proposals incorporating the rates and holiday provisions contained in the current voluntary agreement in the knowledge that enforcement of these provisions by the wages inspectorate would be guaranteed for whatever period was fixed by the Minister. This arrangement might have the double effect of reducing the Council's resistance to abolition and of providing a transitional period which the two sides of the industry could use to strengthen their voluntary machinery, particularly on the enforcement side, before taking over the whole responsibility for running their own affairs. Problems of enforcement which arose after the transitional arrangements had been brought to an end and which could not be resolved by the voluntary machinery could be referred to the Industrial Court under section 8 of the Terms and Conditions of Employment Act 1959. A suggestion that has been put forward is that a higher degree of enforcement could be achieved if that Act were amended to enable complaints to be brought to the Court by an individual worker—or by the Ministry acting on his behalf—instead of only by a representative organisation as at present.

APPENDIX I

LIST OF WAGES COUNCILS

Aerated Waters (England and Wales)
Aerated Waters (Scotland)
Baking (England and Wales)
Boot and Floor Polish (Great Britain)

Boot and Shoe Repairing (Great Britain)
Brush and Broom (Great Britain)
Button Manufacturing (Great Britain)
Coffin Furniture and Cerement Making (Great Britain)
Corset
Cotton Waste Reclamation (Great Britain)
Cutlery (Great Britain)
Dressmaking and Women's Light Clothing (England and Wales)
Dressmaking and Women's Light Clothing (Scotland)
Flax and Hemp (Great Britain)
Fur (Great Britain)
General Waste Materials Reclamation (Great Britain)
Hair, Bass and Fibre (Great Britain)
Hairdressing Undertakings (Great Britain)
Hat, Cap and Millinery (Great Britain)
Hollow-Ware (Great Britain)
Industrial and Staff Canteen Undertakings
Jute (Great Britain)
Keg and Drum (Great Britain)
Lace Finishing (Great Britain)
Laundry (Great Britain)
Licensed Non-residential Establishment
Licensed Residential Establishment and Licensed Restaurant
Linen and Cotton Handkerchief and Household Goods and Linen Piece Goods (Great Britain)
Made-up Textiles (Great Britain)
Milk Distributive (England and Wales)
Milk Distributive (Scotland)
Ostrich and Fancy Feather and Artificial Flower (Great Britain)
Paper Bag (Great Britain)
Paper Box (Great Britain)
Perambulator and Invalid Carriage (Great Britain)
Pin, Hook and Eye and Snap Fastener (Great Britain)
Readymade and Wholesale Bespoke Tailoring (Great Britain)
Retail Bespoke Tailoring (England and Wales)
Retail Bespoke Tailoring (Scotland)
Retail Bookselling and Stationery Trades (Great Britain)
Retail Bread and Flour Confectionery Trade (England and Wales)
Retail Bread and Flour Confectionery Trade (Scotland)
Retail Drapery, Outfitting and Footwear Trades (Great Britain)
Retail Food Trades (England and Wales)
Retail Food Trades (Scotland)
Retail Furnishing and Allied Trades (Great Britain)
Retail Newsagency, Tobacco and Confectionery Trades (England and Wales)
Retail Newsagency, Tobacco and Confectionery Trades (Scotland)
Road Haulage
Rope, Twine and Net (Great Britain)
Rubber Proofed Garment Making Industry
Sack and Bag (Great Britain)
Shirtmaking (Great Britain)
Stamped or Pressed Metal-wares (Great Britain)
Toy Manufacturing (Great Britain)
Unlicensed Place of Refreshment
Wholesale Mantle and Costume (Great Britain)

APPENDIX II

WAGES COUNCILS: (1) INSPECTION AND ENFORCEMENT

(2) LEGAL PROCEEDINGS INSTITUTED BY THE MINISTRY

(1) Inspection and Enforcement

	1938	*1954*	*1964*
No. of Wages Councils	47	65	57
Estimated no. of workers within scope of Wages Councils Regulations	1,000,000	3,500,000	3,500,000
No. of establishments on employers' lists	83,378	513,995	507,438
Inspections during year	18,671	53,300	48,606
Inspections during year as percentage of employers' lists	22.4	10.4	9.6
Non-compliance revealed by Inspection			
Failure to post notices	1,839	15,011	14,264
Failure to post notices as percentage of inspections	9.8	28.2	29.3
Failure to pay Minimum Remuneration			
Wages			
Establishments where arrears paid	2,518	6,638	6,010
Establishments where arrears paid as percentage of total inspections	13.5	12.5	12.4
No. of workers whose wages were examined	252,406	316,501	271,344
No. of workers paid arrears (wages)	7,299	12,317	10,335
Expressed as percentage of workers' wages examined	2.9	3.9	3.8
Total amount of arrears paid (wages)	£23,203	£127,021	£134,672
Average amount of arrears per underpaid worker	£3 4s.	£10 6s.	£13 1s.
Holiday Pay			
Establishments where arrears paid	No	6,647	4,177
No. of workers paid arrears (holidays)	Holiday Pay	12,060	5,635
Total amount of arrears paid (holidays)	Regulations	£40,224	£26,736
Average amount of arrears per underpaid worker		£3 7s.	£4 15s.
Wages and Haliday Pay			
Total arrears paid	£23,203	£167,245	£161,408
Average amount of arrears per underpaid worker	£3 4s.	£7 13s.	£10 19s.
Failure to allow holidays			
Customary Holidays			
(*a*) Establishments	No	90	70
(*b*) No. of workers affected	Regulations	270	232
Annual Holidays			
(*a*) Establishments	No	768	138
(*b*) No. of workers affected	Regulations	1,305	221

(2) Legal Proceedings Instituted by the Ministry

Criminal Proceedings

During the years 1938, 1954 and 1964 proceedings were taken against employers or their agents for infringements of the Trade Board Acts, Catering Wages Act or Wages Councils Acts in respect of underpayment of statutory minimum remuneration (including holiday remuneration in some cases) combined in certain cases with charges of failure to post notices, failure to keep adequate records, producing a false record and furnishing false information. One case taken in 1938 and resulting in a conviction was in respect of one charge only, namely failure to post notices. In 1964 a charge of receiving illegal payments by way of premium in respect of two workers was included.

The results are summarised below:

	1938	*1954*	*1964*
No. of cases	16	4 (in respect of 13 workers)	6 (in respect of 50 workers employed in 15 establishments)
Convictions	15 (on all charges)	3	6
	1 (on one charge only: two dismissed)	(1 case dismissed)	
Penalties			
Fines	£168	£37	£678
Costs awarded to Ministry	£36 5s. 6d.	£42 10s. 0d.	£189 11s. 9d.
Payment of arrears ordered	13 cases (amount not available)	£550 (paid into Court without an Order)	£3,689 4s. 11d.

Civil Proceedings

1938 No case.

1954 Arrears of wages and holiday pay amounting to £77 3s. 6d. were recovered for five workers from five employers. Costs awarded to the Ministry amounted to £49 19s. 0d.

1964 One case received Court Judgment in favour of one worker for £128 4s. 3d. arrears of wages. Costs awarded: £10 12s. 0d.

NOTES

1. *1938*

In 1938 the statutory bodies which are now "Wages Councils" were "Trade Boards" constituted under the Trade Board Acts 1909 and 1918.

2. *1954*

(1) By 1954, Trade Boards had been converted to Wages Councils under the Wages Councils Act 1945.

(2) The Road Haulage Central Wages Board, established under the Road Haulage Wages Act 1938 and whose Proposals took effect in January 1940, had become a Wages Council under the Wages Councils Act 1948.

(3) Five Catering Wages Boards had been established under the Catering Wages Act 1943. Wages regulation orders, issued on the Proposals of four Boards were operating in 1954. The Unlicensed Residential Establishment Wages Board had made Proposals which never became effective. Consequently, unlicensed residential establishments were not brought within the field of wages inspection. Statistics relevant to this Board have not been included in the table.

(4) Under the authority of the Holidays with Pay Act 1938, Wages Boards and Councils issued Proposals for holiday regulations which had come into operation.

(5) Ten Wages Councils had been established for retail distributive trades including Hairdressing. Wages regulation orders regulating wages and holidays had come into force for eight of these Councils.

3. *1959*

(1) The Terms and Conditions of Employment Act 1959, abolished the Catering Wages Act and converted Catering Wages Boards into Wages Councils.

The Wages Councils Act 1959 abolished earlier legislation and was a consolidating measure to bring Wages Councils machinery under the authority of one Act.

(2) Since the war, ten Wages Councils have been abolished in favour of voluntary negotiating machinery.

The latest Wages Council, that for the Rubber Proofed Garment Making Industry, was established in 1957 and the first wages and holidays regulation orders for this Council took effect on 2nd January 1959.

APPENDIX III

PROCEDURE FOR ABOLISHING OR VARYING THE SCOPE OF WAGES COUNCILS

1. Before a Wages Council can be abolished or its field of operation varied the Act requires the Minister to give notice of his intention to do so and to publish in draft form the Order which he proposes to make to give legal effect to his intention. If objections of substance are raised during the statutory period (which must be not less than 40 days) the Minister must refer the matter to a Commission of Inquiry and cannot pursue his original intention unless he obtains the backing of the Commission. The Commission must specifically deal with the objections in its Report. The Minister may, if he wishes, set up a Commission of Inquiry to advise him before he publishes an official notice of intention.

2. The initiative for abolition or variation of scope may be taken by the Minister or by the industry concerned. When the Minister decides to take the initiative he may, if he wishes, first refer the matter to a Commission of Inquiry. Alternatively he may start by giving statutory notice of his intention and only set up a Commission of Inquiry if objections are raised. Where the initiative comes from the industry itself, the procedure is for an application to be made to the Minister. Such an application may be made by a Joint Industrial Council or similar body which represents a substantial proportion of the workers and employers or jointly by similarly representative organisations of workers and employers. In either case the grounds for the application must be that such body or such organisations provide machinery which is adequate for the effective regulation of the remuneration and conditions of employment of the workers concerned.

3. A Commission of Inquiry is required to make all necessary investigations, to publish a notice inviting written representations, to consider such representations (with oral evidence if necessary) and to report to the Minister. In considering a reference concerning abolition or variation of scope of a Wages Council a Commission may recommend that the Wages Council be abolished or its field of operation

narrowed if it considers it expedient to do so, having regard to the extent to which adequate machinery set up by agreement between workers' and employers' organisations exists and is likely to remain. In considering the adequacy of any machinery for regulating the remuneration and conditions of employment of any workers, a Commission of Inquiry is required to take account not only of the matters capable of being dealt with by that machinery but also the extent to which these matters are covered by the agreements or awards arrived at and the extent to which these agreements or awards are observed in practice.

4. The practical effect of this procedure is that a Wages Council can be abolished or its scope varied (i) if there are no objections, or (ii) if a Commission of Inquiry has considered and dealt with any objections raised and recommends in favour of abolition or variation.

Section II—Truck Acts 1831-1940

18. The current system of Truck legislation comprises the following statutes:

The Truck Act 1831
The Truck Amendment Act 1887
The Truck Act 1896
The Truck Act 1940

19. The object of the Truck Act 1831 was to ensure that the wages of certain specified classes of workmen were paid only in the current coin of the realm and that the workman actually received the full amount of the wages to which he was entitled in such coin. Payment of wages in goods was made illegal as also was any agreement as to the manner in which a workman should spend his wages.

20. The Truck Amendment Act 1887 extended the provision of the Truck Acts to all persons coming under the description of "workmen" as defined in the Employers and Workmen Act 1875. This applied the legislation to any person engaged in manual labour under a contract with an employer, but excluding domestic servants. The Act legalised contracts between employers and farm workers for the supply of food, accommodation and other allowances or privileges in addition to money wages as remuneration for services.

21. The Truck Act 1896 dealt mainly with the question of deductions or payments in respect of fines, damaged goods and materials. It provided that deductions for fines should be fair and reasonable and that no such deduction should be made unless the workman had previously signed a contract agreeing to submit to such deductions or a notice containing the contract was prominently displayed in the workplace. Deductions or payments in respect of damaged goods or materials were subjected to similar restrictions but with two modifications: firstly, the deductions should not only be fair and reasonable but should never exceed the actual or estimated amount of the loss; secondly, it was not necessary for the contract or notice to contain particulars of all possible deductions.

22. The Truck Act 1940 did not alter the law as to the future but was passed to restrain proceedings under the Truck Act 1831 in respects of contracts entered into before 10th July 1940 and which but for the Act would have been contrary to the decision in *Pratt v. Cook* (1940).

23. The Truck Amendment Act 1887 imposed a duty of enforcement upon Inspectors of Factories and of Mines. In practice, the work of Inspectors in the field of Truck legislation has always been to take up cases which come to their notice or to which their attention is called during their visits to a factory. There has been a marked decline in the number of cases coming to the notice

of Inspectors of Factories but about two-thirds of the complaints have been found on investigation to be justified. Most of the complaints have been concerned with illegal deductions from wages.

24. In comparatively rare instances, complaints are made by or on behalf of workers in whose cases the Factory Inspector has no power to act. In such cases it has been the Department's practice to take steps to inform the worker of his right to pursue the matter through the Courts and to recommend him to take legal advice.

25. Wilful breaches of the Acts are rare, but circumstances in industry have changed so radically since the Acts were passed that many of their provisions have now become irrelevant. By restricting the payment of wages in kind and deductions from wages, they can sometimes hinder employers in providing desirable fringe benefits for their manual workers.

26. Accordingly, in July 1959, following a recommendation of the National Joint Advisory Council, the Minister of Labour announced in Parliament that a Committee under the chairmanship of Mr. David Karmel, Q.C. was to be appointed to consider the operation of the Truck Acts and related legislation in the light of present conditions and to make recommendations. The Committee submitted its Report to the Minister in May 1961. The main recommendations, which are summarised in the Appendix to this Section, were a compromise between the views given in evidence by the B.E.C. who urged that the Truck Acts could now be safely repealed and not replaced and the views of the T.U.C. who, though not putting forward any detailed proposals, considered that a modified and consolidated Truck Act should cover a greater number of workers than the present Acts. In essence, the Committee recommended that the Truck Acts and certain related legislation should be repealed and that new legislation should be introduced to provide limited safeguards (mainly confined to deductions from pay and giving aggrieved workers the right of appeal to a tribunal), but covering all, except merchant seamen, employed under a contract of service and not merely manual workers. The Committee specifically recommended that the legislation should be made applicable to the Crown.

27. On receipt of the Report it was decided that interested bodies, including employers' and workers' organisations, local authority associations and Government Departments, should be consulted on the practical implications of legislation broadly on the lines recommended by the Committee. These consultations showed that there were considerable reservations about legislation along these lines and no action has been taken to implement the Report.

APPENDIX

SUMMARY OF MAIN RECOMMENDATIONS OF THE KARMEL COMMITTEE

The main recommendations of the Karmel Committee may be summarised as follows:—

1. The Truck Acts 1831-1940 should be repealed and replaced by legislation adapted to modern conditions. Unlike the Truck Acts, which apply only to those engaged in manual labour, the new legislation should cover all who are employed under a contract of service (including Crown employees) except for merchant seamen if their special position under the Merchant Shipping Acts is to be maintained.
2. Existing restrictions on the payment of wages otherwise than in cash should be retained but not extended to any new categories of workers. The legal obstacles to the provision of additional benefits in kind should be removed.

3. Employers should be permitted to make deductions from wages, subject to provision for appeal to local tribunals,

(*a*) if the worker freely consents;

(*b*) if accepted practice permits, or if the majority of workers agree, for fines and bad work;

(*c*) if the worker or the tribunal agrees that he has been overpaid;

(*d*) if his general terms of service permit, to meet a cash shortage previously notified to the worker.

Section III—Payment of Wages Act 1960

28. Certain restrictions on the manner of payment of wages, imposed by the Truck Acts 1831 to 1940, were removed by the Payment of Wages Act 1960. The Act affects workers to whom the Truck Acts apply (generally speaking, manual workers) and their employers. Wages in respect of any worker to whom the Act applies may be paid into a bank account by cheque, by postal order or by money order if the worker so requests and with the agreement of the employer.

29. The desirability of amending the Truck Acts along the lines ultimately followed in the Payment of Wages Act 1960 first became a matter of general concern in September 1956 when considerable publicity was given to the fact that the Pye Radio Company had reluctantly discontinued a recently introduced practice of paying their workers' wages by cheque after receiving legal advice that the practice might be considered an infringement of the Truck Acts.

30. The Truck Act 1831 permitted a worker within the scope of the Act to be paid wages by cheque only if (*a*) the worker consented and (*b*) the cheque was a bearer cheque drawn on a bank licensed to issue notes and situated within 15 miles of the place of payment. Changes in the banking system since 1831 had turned this provision, which was originally permissive, into a virtual prohibition on payment of wages by cheque in England and Wales where the Bank of England had become the only note-issuing bank.

31. The Payment of Wages Act 1960 permitted from 1st December 1960 payment of wages to a Truck Act worker into a bank account or by postal order or money order at the worker's request and with the agreement of the employer. Provision was also made in the Act to permit payment of wages by cheque from a day to be appointed by order of the Minister of Labour. The order was subsequently made, appointing 1st March 1963 for this purpose.

32. Under the Act, the initiative for proposing payment of wages otherwise than in cash must be taken by the individual worker concerned, who must make a written application for such method of payment. The employer's consent is also required.

33. The Ministry has no check under the Act on the use which is being made of the provisions of the Act or the numbers of manual workers whose wages are paid by one of the methods permitted. Such evidence as is available does not, however, suggest that the Act has yet brought about any widespread change in methods of wage payment.

Section IV—Safety, Health and Welfare

The Role of Trade Unions and Employers' Associations

34. One important aspect of working conditions, namely that relating to safety, health and welfare, has historically been the subject of State regulation rather than being left to collective bargaining. Since 1833 the State has imposed statutory requirements in the interests of ensuring safety and health at work

and enforced them through a Government inspectorate. The scope and complexity of this legislation and the size of the inspectorate have shown a steady increase. Most manufacturing establishments and some important service industries are subject to the provisions of the Factories Acts and similar but separate legislation applies to agriculture and to mines and quarries. A recent large extension of legislation on the subject of safety, health and welfare was made by the Offices, Shops and Railway Premises Act 1963, which is largely enforced by local authorities.

35. The general statement that this aspect of working conditions is the subject of State regulation rather than action by trade unions and employers' associations needs qualification in two important respects. In the first place, the detailed regulations which amplify and define many of the provisions of the Factories Acts and of the Offices, Shops and Railway Premises Act are worked out in close consultation with trade unions and employers' associations and the special interest of these industrial organisations is acknowledged in the provisions of both of these Acts, which require the Minister to consult with representative organisations before exercising his powers to make certain types of regulations and to hold an inquiry into objections which they might make to these proposals before he can proceed with them. This involvement of the trade unions and the employers' associations with the State authorities in the elaboration of provisions dealing with safety, health and welfare finds further expression in the national advisory committees on these subjects and in the numerous committees which the Minister has established to consider and advise on the special problems of particular industries and processes, which meet under the Chairmanship of senior members of the Factory Inspectorate and of which the main membership consists of representatives of employers' organisations and trade unions.

36. The second qualification of the general statement that questions of safety, health and welfare are the subject of State regulation is that the standards prescribed and enforced by the State can be and are supplemented by voluntary action within industry. The merits of such supplementary action are that it enlists necessary goodwill and enthusiasm, that it can make desirable provision going far beyond what can reasonably be compulsorily required and enforced, that it can be flexible and adapted to the circumstances of individual processes and plants in a way which is difficult in statutory regulations, and that it can be supported by the daily interest and attention of those on the spot in the workplace. Responsibility for safety measures rests primarily on managements, but ideally that responsibility is best discharged through a process of joint consultation which has been jointly commended to industry by the Confederation of British Industry and the Trades Union Congress.

37. The boundaries between State regulation and voluntary industrial action are not fixed. The need for State regulation is naturally less where health and safety problems are already being effectively tackled by voluntary action. The case for compulsion, with its inherent problems and disadvantages, becomes stronger where voluntary action has failed. This general doctrine can be applied to the process of joint consultation itself and the Trades Union Congress called in 1964 for legal backing to secure the establishment of Joint Safety Committees and the appointment of Safety Delegates.

38. In this mixed field of statutory action with industrial backing or voluntary action with advice and support from the Factory Inspectorate, the cause of industrial health and safety is best served where there are strong employers' organisations able and willing to undertake positive action for their members in the way of formulating policy and providing services, and strong trade unions which can co-operate with employers in the prosecution of industrial health and safety policies and can enlist the active support and interest of their members on

the shop floor. There is a wide range of services which an active employers' organisation can provide for its members, such as the provision of statistics and information generally, the carrying out or promotion of research, the appointment of specialist staffs to advise member companies, the provision of training courses and the promotion of management studies of health and safety problems through conferences and other means. Strong and authoritative employers' organisations and trade unions are essential components of effective industrial health and safety policies.

Section V—Employment Services

39. The Ministry of Labour provides a service to employers seeking workers and workers seeking jobs through its network of 900 Employment Exchanges throughout the country. The Youth Employment Service provides vocational guidance and help in finding employment for young people under 18 (or over 18 if still at school). In most areas it is administered by local education authorities; elsewhere it is provided directly by the Ministry of Labour.

The Public Services

40. The use of the employment services provided by the Ministry is voluntary except to the extent that claimants for unemployment benefit must register for employment with the Exchanges. We have no precise information about the proportion of engagements made through the Exchanges compared with those made in other ways. The only reasonably firm indication from statistics is that one out of five of total engagements in manufacturing industries is made through an Employment Exchange. This is in itself suggests that the Exchange system, especially in the manual categories, makes a significant contribution comparable with what, on the evidence available, is achieved in most industrial countries though not up to the performance of some, e.g. Sweden. What is perhaps even more significant about this proportion is that the public service, naturally and rightly, has to devote much of its effort to the not so easily placed applicants for employment; a special service for the disabled is provided by the Disablement Resettlement Officers working as an integral part of the exchange service.

41. Other points of some interest are that:

(*a*) of those who become unemployed, about half use their local Employment Exchange and, of those, the Exchanges place 40 per cent. in employment—slightly more women than men;

(*b*) Employment Exchanges are more likely to be used by manual than by non-manual workers.

42. Just what proportion of engagements the public placing service should aim to handle—or in a free labour market can be organised to handle—and how much can equally well be handled by free market forces and private agencies, including trade unions, is very much in doubt. In particular, the part played by fee-charging employment agencies in certain fields has in recent times engaged considerable attention. There is, of course, no intention of attempting to make the use of the public service compulsory. The aim is to improve the public service so as to make it a more attractive and effective force in accordance with the social and economic needs of the time. During the last two years a number of experiments and improvements have been put in hand with this in view. These include improvements in physical conditions and operating procedures in the Exchanges; improved management organisation and control; the strengthening of the existing services and the planning of new services; better publicity and public relations; and quicker methods of transacting business on modern lines.

43. The Youth Employment Service is also part of the public services. The number of Youth Employment Officers has been steadily built up over the last ten years, rising from just over 900 in 1956 to just over 1,550 in 1965. Youth Employment Officers give advisory interviews to approximately 90 per cent. of those leaving school at the minimum statutory age but to a lower proportion of those who leave later. The Service places about 40 per cent. of the younger leavers and about 30 per cent. of the older leavers. So far as possible, Youth Employment Officers seek to place young people in progressive employment in which they will have the opportunity to develop their abilities and aptitudes. It is known that approximately a third of all boys entering employment secure apprenticeships, but no statistics are available to show how many of these are placed by the Youth Employment Service and how many obtain apprenticeships in other ways.

Other Agencies

44. Although no regular statistics are available a sample survey of workers changing their jobs during ten recent years has given broad indications of what is happening amongst those who have not used the Employment Exchanges or the Youth Employment Offices. These indications are:

(*a*) the most usual way of getting a job is for the worker to approach prospective employers direct;

(*b*) the other methods widely used are to ask friends and relations about possible vacancies and to scan advertisements in newspapers and journals and on notice boards;

(*c*) only a small proportion of people seeking employment use private agencies but more women than men do so, especially in the clerical field;

(*d*) still smaller proportions, but more men than women, use non-commercial agencies (including trade unions, professional bodies, universities and schools) or are approached direct by employers.

45. Although the role played by trade unions is not large in relation to the whole labour force, its importance is considerably greater in some occupations and some localities than in others. Experienced employment officers report, for example, that a significant proportion of engagements are made through the trade unions in the printing crafts, in the shipbuilding iron working trades, as well as a significant proportion of engagements of technicians in the entertainments industries, of musicians, and, in some localities, of electricians and general or constructional engineering workers.

General

46. The various services provided for placing of adults, young workers and the disabled are supported and advised at local level by committees (Local Employment Committees, Youth Employment Committees and Disablement Advisory Committees), mainly comprising representatives of local employers and trade union representatives. The Local Employment Committees, which have now a history of nearly 50 years, were in their earlier days pioneers in a practice which has now become general, of calling representatives of employers and trade unions into regular consultation on matters where Government action and policy impinge upon industrial interests: they and the Youth Employment Committees and Disablement Advisory Committees, apart from their intrinsic value to the Ministry's work, also perform a useful function for industrial relations by regularly bringing together leading local industrialists and trade unionists on neutral ground for the discussion of mainly non-controversial matters.

SIXTH MEMORANDUM: INTERNATIONAL OBLIGATIONS

1. It may be useful for the Commission to have information about the main international instruments dealing with matters with which the Commission is concerned. These consist of a number of International Labour Conventions and Recommendations, the Universal Declaration of Human Rights adopted by the U.N. General Assembly in 1948, the Convention for the Protection of Human Rights and Fundamental Freedom adopted by the Council of Europe in 1950, and the European Social Charter adopted by the Council of Europe in 1961.

International Labour Conventions and Recommendations

2. The International Labour Conference has adopted 124 Conventions covering a wide range of subjects such as freedom of association, conditions of work (hours, holidays, termination, etc.), industrial health, safety and welfare, social security, employment and training. The United Kingdom has ratified 62 of these Conventions, a total which is exceeded by only five of the 114 member states of the International Labour Organisation (Belgium, Bulgaria, Cuba, France and Italy). The number of Conventions ratified is not, of course, a completely reliable guide to the standards reached by a country in matters of labour policy and administration. Some Conventions are of a specialised character and may not be relevant to the circumstances of all member states. Some may present difficulties of a technical nature to a particular country. In other cases there may be valid substantial reasons for non-ratification. For example, the United Kingdom has been reluctant to ratify Conventions which require the imposition by law of standards which, in this country, are traditionally determined by voluntary collective bargaining—notwithstanding the fact that in most such cases United Kingdom practice is in line with or even superior to the standards laid down. The United Kingdom ratifies a Convention only when both United Kingdom law and practice are considered to be in full conformity with the requirements of the Convention.

3. Under the constitution of the International Labour Organisation member states have a binding obligation to apply International Labour Conventions which they ratify. They are also obliged to submit detailed periodical reports on their application. There is no similar obligation where Recommendations are concerned, the obligation on the member state being to bring them before the competent authority, to report on the action taken and thereafter to submit further reports as requested by the Governing Body.

Conventions Nos. 87 *and* 98

4. There are two Conventions of outstanding importance for industrial relations. These are Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise and Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively. The United Kingdom has ratified both these Conventions. Their texts are set out in Appendix I.

5. Convention No. 87 was adopted in 1948 and ratified by the United Kingdom in 1949. Under Article 2 it is provided that "workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation". Article 3 of the Convention provides that "workers' and employers' organisations shall have the right to draw up their own constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes" and that "the public authorities shall refrain from any interference

which would restrict this right or impede the lawful exercise thereof". Article 8 also provides that "in exercising the rights provided for in this Convention workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land"; however, "the law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention".

6. Convention No. 98 was adopted in 1949 and ratified by the United Kingdom in 1950. Article I provides that "workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment" and more particularly in respect of acts calculated to—

"(*a*) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;

(*b*) cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours".

Article 2 provides that "workers' and employers' organisations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration". For the purposes of this provision acts which are designed to promote employer-dominated workers' organisations are deemed to constitute "acts of interference". Article 4 provides that "measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements".

7. It may be noted that neither of these Conventions refers to "the right to strike". However the I.L.O.'s Committee of Experts on the Application of Conventions and Recommendations, in a survey covering the application of these Conventions which they made in 1959*, stated:

> "Finally, in certain countries organisations do not have the right to use the strike weapon . . . there is a possibility that this prohibition may run counter to Article 8, paragraph 2, of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), according to which 'the law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for' in the Convention, and especially the freedom of action of trade union organisations in defence of their occupational interests; it is therefore necessary that, in every case in which certain workers are prohibited from striking, adequate guarantees should be accorded to such workers in order fully to safeguard their interests. This principle has been emphasised on numerous occasions by the Governing Body of the I.L.O. on the recommendation of its 'Committee on Freedom of Association'."

8. It may also be noted that the Conventions do not deal with closed shop or union shop arrangements. The Committee of the Conference which drafted Convention No. 87, recognising the wide variations in law and practice in this matter as between one country and another, stated that "the Convention could in no way be interpreted as authorising or prohibiting union security arrangements, such matters being for regulation in accordance with national practice".

*See paragraph 68 of Report III (Part IV) to the 43rd Session of the International Labour Conference 1959.

Other industrial relations matters

9. A number of other International Labour Conventions and Recommendations may be of interest. They can be briefly summarised as follows:—

(1) *Convention No.* 1—*Hours of Work* (*Industry*)

Adopted by the I.L.O. in 1919. This requires the limitation of working hours in industry to a maximum of eight in a day and 48 in a week, with provisions for certain exceptions. The United Kingdom has not ratified this Convention. For the most part working hours in this country are determined by collective bargaining rather than by legislation.

(2) *Convention No.* 11—*Right of Association* (*Agriculture*)

Adopted in 1921. Ratified by the United Kingdom in 1923. This provides that all those engaged in agriculture shall have the same rights of association and combination as industrial workers.

(3) *Convention No.* 14—*Weekly Rest* (*Industry*)

Adopted in 1921. This provides for a rest period of at least 24 hours in every period of seven days. The United Kingdom has not ratified this Convention. Although the weekly rest period is generally observed, the same difficulty arises as in the case of Convention No. 1.

(4) *Convention No.* 26—*Minimum Wage Fixing Machinery*

Adopted in 1928. Ratified by the United Kingdom in 1929. This provides for the creation of machinery for fixing minimum rates of wages in trades where no arrangements exist for the effective regulation of wages by collective agreement.

(5) *Convention No.* 30—*Hours of Work* (*Commerce and Offices*)

Adopted in 1930. This provides that the hours of work of persons to whom it applies shall not exceed 48 in a week and eight in a day. The United Kingdom has not ratified this Convention. The range of occupations covered and the wide variety of exceptions permitted are considered to make its implementation and enforcement impracticable. See also Convention No. 1.

(6) *Convention No.* 47—*Forty-Hour Week*

Adopted in 1935. This requires acceptance of the principle of the 40 hour week and the taking or encouraging of measures to secure its adoption "in such a manner that the standard of living is not reduced in consequence". This Convention has not been ratified by the United Kingdom. As worded, it is regarded as being lacking in precision and incapable of enforcement.

(7) *Convention No.* 52—*Holidays with Pay*

Adopted in 1936. This requires ratifying Governments to enforce minimum standards for annual holidays with pay. It has not been ratified by the United Kingdom because holidays with pay in this country are normally fixed by collective bargaining, the Government intervening only where the necessary bargaining machinery does not exist.

(8) *Recommendation No.* 91—*Collective Agreements*

Adopted in 1951. This provides for the establishing of machinery for the negotiation of collective agreements, and of procedures for settling disputes arising out of the interpretation of such agreements. In 1953 the Government announced that they regarded the Recommendation as

generally acceptable subject to a number of points, the main purport of which was that the negotiation and application of collective agreements, and the establishment of disputes procedures, were essentially matters for settlement by the parties concerned and not by the Government.

(9) *Recommendation No.* 92—*Voluntary Conciliation and Arbitration*

Adopted in 1951. Accepted by the United Kingdom in 1953. This provides for the establishment of voluntary conciliation machinery to assist in the prevention and settlement of labour disputes. The Recommendation states that its provisions are not to be interpreted as limiting in any way the right to strike.

(10) *Convention No.* 95—*Protection of Wages*

Adopted in 1949. Ratified by the United Kingdom in 1951. This contains provisions regarding the form, time, place and method of payment of wages.

(11) *Convention No.* 99—*Minimum Wage Fixing Machinery* (*Agriculture*)

Adopted in 1951. Ratified by the United Kingdom in 1953. This provides for the creation of adequate machinery for the fixing of minimum rates of wages in agricultural undertakings and related occupations.

(12) *Convention No.* 100—*Equal Remuneration*

Adopted in 1951. This requires ratifying Governments to promote, and, so far as is consistent with national methods of wage-determination, to ensure the application to all workers of the principle of equal pay for men and women workers for work of equal value. The United Kingdom has not ratified this Convention. The Government set up at the beginning of 1965 an Inter-Departmental Working Party to consider the cost of implementing the principle of equal pay for equal work and other questions involved.

(13) *Convention No.* 105—*Forced Labour*

Adopted in 1957. Ratified by the United Kingdom in 1958. This provides for the abolition of forced or compulsory labour as a means of political coercion, as a means of labour discipline, as a punishment for participation in strikes, or as a means of racial, social, national or religious discrimination.

(14) *Convention No.* 111—*Discrimination* (*Employment and Occupation*)

Adopted in 1958. This requires ratifying Governments to pursue a national policy designed to eliminate discrimination in respect of employment on grounds of race, colour, sex, religion, political opinion, national extraction or social origin. The United Kingdom has not ratified this Convention as implementation of the principle of equal pay is still under consideration.

(15) *Recommendation No.* 119—*Termination of Employment*

Adopted in 1963. Accepted by the United Kingdom in 1964. The basic principle of the Recommendation is that termination of employment by an employer should not take place without a valid reason. It lays down a number of detailed provisions to be implemented in a manner consistent with national practice.

The Universal Declaration of Human Rights

10. In December 1948 the General Assembly of the United Nations adopted the Universal Declaration of Human Rights, which contains certain provisions

which are relevant to the subject of industrial relations—in particular the following:—

Article 20

(1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

Article 23

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

11. The Government's attitude to the Universal Declaration of Human Rights was stated by the Prime Minister in replying to a Parliamentary Question on 4th February 1965 in the following terms:—

"The United Kingdom voted for this Declaration, which was proclaimed in the form of a Resolution of the General Assembly and which was not intended to constitute a binding legal obligation. The Declaration does not have the status of a treaty or convention and it is not therefore legally possible for any State to adhere to or become a party to it. But the Declaration does have great moral authority which Her Majesty's Government, for their part, will do all in their power to support."

Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms

12. This Convention was signed in Rome in November 1950, and the United Kingdom was the first country to ratify it, in March 1951. The Convention came into force in September 1953.

13. Article 11 is concerned with the right to freedom of assembly and freedom of association "including the right to form and to join trade unions . . .". It reads as follows:—

Article 11

(1) Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

(2) No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

14. These provisions afford substantially the same protection as I.L.O. Conventions Nos. 87 and 98 previously mentioned.

European Social Charter

15. The European Social Charter was prepared by the Social Committee of the Council of Europe, and signed by member countries in 1961. A country which ratifies the Charter must undertake to consider itself bound by a minimum number of Articles or paragraphs. The United Kingdom was the first country to ratify the Charter in July 1962, and it came into force following the fifth ratification in February 1965. The first reports under the Charter will be due in 1967, and a Committee of Experts will be appointed to examine them.

16. Articles 5 and 6 of the Charter deal with The Right to Organise and The Right to Bargain Collectively. The text of these Articles is given in Appendix II. The United Kingdom has accepted both of them.

17. Under Article 5 the contracting parties undertake to see that their law and practice do not impair the freedom of employers and workers to form, and join, organisations for the protection of their economic and social interests. The wording of the Article is similar to Articles 8(2) and 9(1) of I.L.O. Convention No. 87 (see paragraphs 4—5 of this memorandum). The last two sentences of Article 5 make reservations about the police and the armed forces on similar lines to Article 9(1) of the I.L.O. Convention.

18. Under Article 6 the contracting parties undertake to promote joint consultation and machinery for collective bargaining. Paragraph 4 recognises "the right to strike". The right is not, however, unqualified as it is limited to "conflicts of interest" between employers and workers, and is subject to "obligations that arise out of collective agreements previously entered into"—such as the use of agreed negotiating procedures to settle disputes. Article 31 of the Charter allows Governments to impose restrictions or limitations prescribed by law "for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health or morals". The Appendix to the Charter provides that the exercise of the right to strike may be regulated by law if this can be justified under Article 31. The United Kingdom's acceptance of paragraph 4 rests on these exceptions.

APPENDIX I

Texts of International Labour Conventions Nos. 87 and 98

INTERNATIONAL LABOUR CONFERENCE

Convention 87

CONVENTION CONCERNING FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANISE

The General Conference of the International Labour Organisation, having been convened at San Francisco by the Governing Body of the International Labour Office, and having met in its Thirty-first Session on 17th June 1948; having decided to adopt, in the form of a Convention, certain proposals concerning freedom of association and protection of the right to organise, which is the seventh item on the agenda of the session; considering that the Preamble to the Constitution of the International Labour Organisation declares "recognition of the principle of freedom of association" to be a means of improving conditions of labour and of establishing peace; considering that the Declaration of Philadelphia reaffirms that "freedom of expression and of association are essential to sustained progress"; considering that the International Labour Conference, at its Thirtieth Session, unanimously adopted the principles which should form the basis for international regulation; considering that the General Assembly of the United Nations, at its Second Session, endorsed these principles and requested the International Labour Organisation to continue every

effort in order that it may be possible to adopt one or several international Conventions; ADOPTS this ninth day of July of the year one thousand nine hundred and forty-eight the following Convention, which may be cited as the Freedom of Association and Protection of the Right to Organise Convention, 1948:

PART I. FREEDOM OF ASSOCIATION

Article 1

Each Member of the International Labour Organisation for which this Convention is in force undertakes to give effect to the following provisions.

Article 2

Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

Article 3

1. Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes.

2. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

Article 4

Workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority.

Article 5

Workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers.

Article 6

The provisions of Articles 2, 3 and 4 hereof apply to federations and confederations of workers' and employers' organisations.

Article 7

The acquisition of legal personality by workers' and employers' organisations, federations and confederations shall not be made subject to conditions of such a character as to restrict the application of the provisions of Articles 2, 3 and 4 hereof.

Article 8

1. In exercising the rights provided for in this Convention workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land.

2. The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention.

Article 9

1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.

2. In accordance with the principle set forth in paragraph 8 of Article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom

or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

Article 10

In this Convention the term "organisation" means any organisation of workers or of employers for furthering and defending the interests of workers or of employers.

Part II. PROTECTION OF THE RIGHT TO ORGANISE

Article 11

Each member of the International Labour Organisation for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise.

Part III. MISCELLANEOUS PROVISIONS

Article 12

1. In respect of the territories referred to in Article 35 of the Constitution of the International Labour Organisation as amended by the Constitution of the International Labour Organisation Instrument of Amendment, 1946, other than the territories referred to in paragraphs 4 and 5 of the said Article as so amended, each Member of the Organisation which ratifies this Convention shall communicate to the Director-General of the International Labour Office with or as soon as possible after its ratification a declaration stating—

(*a*) the territories in respect of which it undertakes that the provisions of the Convention shall be applied without modification;

(*b*) the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;

(*c*) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;

(*d*) the territories in respect of which it reserves its decision.

2. The undertakings referred to in subparagraphs (*a*) and (*b*) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.

3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of subparagraphs (*b*), (*c*) or (*d*) of paragraph 1 of this Article.

4. Any Member may, at any time at which this Convention is subject to denunciation in accordance with the provisions of Article 16, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

Article 13

1. Where the subject matter of this Convention is within the self-governing powers of any non-metropolitan territory, the Member responsible for the international relations of that territory may, in agreement with the government of the territory, communicate to the Director-General of the International Labour Office a declaration accepting on behalf of the territory the obligations of this Convention.

2. A declaration accepting the obligations of this Convention may be communicated to the Director-General of the International Labour Office—

(*a*) by two or more Members of the Organisation in respect of any territory which is under their joint authority; or

(*b*) by any international authority responsible for the administration of any territory, in virtue of the Charter of the United Nations or otherwise, in respect of any such territory.

3. Declarations communicated to the Director-General of the International Labour Office in accordance with the preceding paragraphs of this Article shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications it shall give details of the said modifications.

4. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.

5. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of Article 16, communicate to the Director-General of the International Labour Office a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

Part IV. FINAL PROVISIONS

Article 14

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 15

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which the ratification has been registered.

Article 16

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 17

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications, declarations and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 18

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with

Article 102 of the Charter of the United Nations full particulars of all ratifications, declarations and acts of denunciation registered by him in accordance with the provisions of the preceding articles.

Article 19

At the expiration of each period of ten years after the coming into force of this Convention, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall consider the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 20

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides,

(*a*) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 16 above, if and when the new revising Convention shall have come into force;

(*b*) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 21

The English and French versions of the text of this Convention are equally authoritative.

Convention 98

CONVENTION (No. 98) CONCERNING THE APPLICATION OF THE PRINCIPLES OF THE RIGHT TO ORGANISE AND TO BARGAIN COLLECTIVELY

The General Conference of the International Labour Organisation, having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-second Session on 8th June 1949, and having decided upon the adoption of certain proposals concerning the application of the principles of the right to organise and to bargain collectively, which is the fourth item on the agenda of the session, and having determined that these proposals shall take the form of an international Convention, ADOPTS this first day of July of the year one thousand nine hundred and forty-nine the following Convention, which may be cited as the Right to Organise and Collective Bargaining Convention, 1949:

Article 1

1. Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.

2. Such protection shall apply more particularly in respect of acts calculated to—

(*a*) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;

(*b*) cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.

Article 2

1. Workers' and employers' organisations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration.

2. In particular, acts which are designed to promote the establishment of workers' organisations under the domination of employers or employers' organisations, or to support workers' organisations by financial or other means, with the object of placing such organisations under the control of employers or employers' organisations, shall be deemed to constitute acts of interference within the meaning of this Article.

Article 3

Machinery appropriate to national conditions shall be established, where necessary, for the purpose of ensuring respect for the right to organise as defined in the preceding Articles.

Article 4

Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

Article 5

1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.

2. In accordance with the principles set forth in paragraph 8 of Article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

Article 6

This Convention does not deal with the position of public servants engaged in the administration of the State, nor shall it be construed as prejudicing their rights or status in any way.

Article 7

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 8

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 9

1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 2 of Article 35 of the Constitution of the International Labour Organisation shall indicate—

(*a*) the territories in respect of which the Member concerned undertakes that the provisions of the Convention shall be applied without modification;

(*b*) the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;

(*c*) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;

(*d*) the territories in respect of which it reserves its decision pending further consideration of the position.

2. The undertakings referred to in subparagraphs (*a*) and (*b*) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.

3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservation made in its original declaration in virtue of subparagraphs (*b*), (*c*) or (*d*) of paragraph 1 of this Article.

4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 11, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

Article 10

1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraphs 4 or 5 of Article 35 of the Constitution of the International Labour Organisation shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications, it shall give details of the said modifications.

2. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.

3. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of Article 11, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

Article 11

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 12

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications, declarations and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 13

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, declarations and acts of denunciation registered by him in accordance with the provisions of the preceding articles.

Article 14

At the expiration of each period of ten years after the coming into force of this Convention, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall consider the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 15

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides—

(*a*) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 11 above, if and when the new revising Convention shall have come into force;

(*b*) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 16

The English and French versions of the text of this Convention are equally authoritative.

APPENDIX II

Texts of Articles 5 and 6 of European Social Charter

Article 5—The Right to Organise

With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Contracting Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this Article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.

Article 6—The Right to Bargain Collectively

With a view to ensuring the effective exercise of the right to bargain collectively, the Contracting Parties undertake:

1. to promote joint consultation between workers and employers;
2. to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;
3. to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes;

and recognise:

4. the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.

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Royal Commission on Trade Unions and Employers' Associations

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1965

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